



pride past, promising future

CLARK COUNTY
WASHINGTON

July 13, 2006

BOARD OF CLARK COUNTY COMMISSIONERS
BUREAU OF INDIAN AFFAIRS MEMORANDUM OF UNDERSTANDING

Mr. Stanley Speaks
Northwest Regional Office
911 NE 11th Avenue
Portland, OR 97232

Dear Mr. Speaks,

Attached are comments from the Board of Clark County Commissioners on the Draft EIS for the Cowlitz trust and casino-resort proposal in Clark County, Washington. Our comments are directed at the Draft EIS and the degree to which it describes the alternatives and the potential impact on the environment.

This Board of County Commissioners took a proactive approach in its relationship with the Cowlitz tribe by developing a Memorandum of Understanding for mitigation of development and law and justice impacts and by initiating early and cordial discussions. We believe the tribe can be a responsible and beneficial landholder in Clark County. We believe that public and private resources in Clark County can assist the tribe in its journey to increased self-sufficiency.

This Draft EIS, unfortunately, does not adequately describe the alternatives or their impacts. If the analysis is carried forward into the Final EIS, the Department of the Interior will make decisions based on unreliable and inadequate information.

We strongly recommend that the Bureau of Indian Affairs and its consultants respond to the Draft EIS comments with a thorough re-analysis of the alternatives using industry recognized methodologies with local conditions for comparison. We request addition of a new alternative that provides a mix of land uses (for example retail, office, light industrial and a casino) and higher wage jobs. We recommend timely production of the Final EIS so the important decision-making connected to this proposal can take place.

Thank you for your consideration and cooperation in this process.

Sincerely,

Marc Boldt, Chair

Steve Stuart, Commissioner

Betty Sue Morris, Commissioner

BOCC/mj



BOARD OF CLARK COUNTY COMMISSIONERS

Steve Stuart, Marc Boldt, Steve Morris

proud past, promising future

CLARK COUNTY

WASHINGTON

July 13, 2006

Mr. James Cason
U.S. Department of Interior
1849 C Street NW, Room 7229
Washington, DC 20240

Dear Mr. Cason,

Attached are comments from the Board of Clark County Commissioners on the Draft EIS for the Cowlitz trust and casino-resort proposal in Clark County, Washington. Our comments are directed at the Draft EIS and the degree to which it describes the alternatives and the potential impact on the environment.

This Board of County Commissioners took a proactive approach in its relationship with the Cowlitz tribe by developing a Memorandum of Understanding for mitigation of development and law and justice impacts and by initiating early and cordial discussions. We believe the tribe can be a responsible and beneficial landholder in Clark County. We believe that public and private resources in Clark County can assist the tribe in its journey to increased self-sufficiency.

This Draft EIS, unfortunately, does not adequately describe the alternatives or their impacts. If the analysis is carried forward into the Final EIS, the Department of the Interior will make decisions based on unreliable and inadequate information.

We strongly recommend that the Department of the Interior require the Bureau of Indian Affairs and their consultants to respond to the Draft EIS comments with a thorough re-analysis of the alternatives using industry recognized methodologies with local conditions for comparison. We request addition of a new alternative that provides a mix of land uses (for example retail, office, light industrial and a casino) and higher wage jobs. We recommend timely production of the Final EIS so the important decision-making connected to this proposal can take place.

Thank you for your consideration and cooperation in this process. We appreciate your previous visit to Vancouver and are ready to assist if you need additional resources from us.

Sincerely,

Marc Boldt, Chair

Steve Stuart, Commissioner

Betty Sue Morris, Commissioner

BOCC/mj

Clark County Comments

Cowlitz Casino-Resort Draft EIS

Contents

Tribal Sovereignty	pg. 2
Trust Status and the EIS	pg. 3
Tribal Gaming Approvals	pg. 3
Purpose of the EIS	pg. 5
Assumptions Used by County in Review	pg. 6
Summary Observations	pg. 7
The Alternatives	pg. 7
Tribal Revenue	pg. 9
Personal Income and Employment	pg. 9
Impact on Resources	pg.10
Impacts on Transportation	pg.10
Impacts on Jurisdictions	pg.11
Mitigation	pg.12
Conclusion	pg.12

Appendices

- Appendix 1: Detailed Comments on Draft EIS
- Appendix 2: Market Analysis of Draft EIS
- Appendix 3: Comments on Administrative Draft EIS
- Appendix 4: Request for Consideration of Issues in EIS

Tribal Sovereignty

When the European powers came to the shores of the new world, they met aboriginal peoples. As was traditional in Europe, the powers drafted treaties with the native people, recognizing their governments and territories. These treaties created the space within which the original 13 colonies grew. The U.S. constitution recognized tribes as sovereigns and recognized the treaties as part of the law of the land. Tribal governments were on a par with other foreign nations. Long after the colonial period of American history, the United States government continued to make treaties with tribes.

The U.S. constitution recognizes four sovereigns and identifies how the sovereigns should interact. The federal government, state governments, tribal governments and foreign governments are the four sovereigns. City and county governments come from the state governments. This legal foundation has been the subject of over 200 years of U.S. legislative and executive policy initiatives that have alternately allotted, reorganized, terminated and assimilated tribal interests. Since the 1970's, U.S. federal policy has emphasized tribal self-government, government-to-government relations, and an equal status with states.

Since the 1970's, self-government and sovereignty have increased the governing power of tribes. Today, tribal governments take over federal programs that operate on and around reservations. They negotiate intergovernmental compacts. They administer block grant funds. They establish agencies to replace state or federal agencies. They build houses and roads, operate medical clinics and schools and regulate casinos.

With greater power for self-governance comes the need for revenue to operate both the government and the programs needed by the people. Tribal governments levy fees and taxes, just as states and municipal governments do. Tribes that retained land bases with natural resources engage in fishing, forestry, mining or tourism. Tribes without a land base, or in areas where the land base is not suitable for resource extraction, turn to other activities. They own and manage office buildings and shopping centers. They operate manufacturing and assembly factories. They also operate casinos and racinos. Gaming is one of the most controversial revenue generators for tribal governments.

The sovereignty of tribal governments allows them to develop lands largely independent of the requirements of neighboring jurisdictions. Many tribal governments recognize that sovereignty comes with the opportunity to be collaborative partners with the neighboring jurisdictions. The activities of the states and local governments can be mutually acknowledged and accommodated for greater effectiveness for all parties.

The issue of tribal government and sovereignty is new for Clark County and its jurisdictions. The Cowlitz tribe, through its proposed project in La Center, was the first tribe to express sovereign rights. It appears that the Yakama tribe may do so also. Recognition of the distinct nature of tribal governments as separate from, yet on a par with the states is key to understanding the tribe's activities in Clark County.

The Cowlitz is acknowledged by the U.S. government as a tribe and has restored status. This means the United States recognizes the Cowlitz as a tribe with sovereign rights to self-governance, land, etc. It acknowledges that, in the past, the U.S. government had discussions and relationships with the Cowlitz tribe as one government to another.

In its relationships with the United States government, the Cowlitz tribe has not had a reservation. A reservation is like a "homeland" where the people live, govern themselves and carry out economic and cultural activities. The tribe is requesting that land near LaCenter be put into trust and designated as a reservation.

Trust Status and the EIS

The process of bringing land into trust status is quite complicated because over 200 years of federal law, policy and court cases guide what is done and how it is done. As part of the fee to trust process, the Bureau of Indian Affairs must prepare an Environmental Impact Statement (EIS) under the National Environmental Policy Act. The EIS, along with several other documents, is reviewed and approved by the Department of the Interior before the land is taken into trust.

The EIS is prepared based on the activity the tribal government proposes for the land. The Cowlitz' preferred development is housing and a cultural center as well as a casino, conference space and hotel space. The EIS evaluates the impact of the tribal government's proposal on the physical and social environment. If there are negative environmental impacts, the EIS must identify mitigation measures for the impacts.

The Bureau of Indian Affairs issued a Draft EIS in April of 2006. A comment period of 90 days is designated. The Bureau of Indian Affairs will respond to the comments on the Draft EIS and will prepare a Final EIS. There is also a comment period for the Final EIS. When the Final EIS is complete, the Cowlitz tribal government will assemble their application for the fee to trust request and submit it to the Department of the Interior for review and approval.

Land must be taken into trust before gaming can occur at the site. Approval of gaming, however, is a separate (but related) process with its own requirements.

Tribal Gaming Approvals

The approval process is even more complicated when a tribe wants to conduct gaming (gambling) on the site. Federal laws have different processes and standards for tribes in different states, with trust or reservation status, and by the year properties were taken into trust.

INDIAN GAMING REGULATORY ACT REQUIREMENTS

FOR INDIAN LANDS ACQUIRED AFTER OCTOBER 17, 1988

(25 U.S.C. §§ 2701-2720)

(OUTSIDE OKLAHOMA)

Class II Gaming must be conducted on
"INDIAN LANDS" § 2710 (B)(1)

Class III Gaming must be conducted on
"INDIAN LANDS" and tribe must have
compact with the State. § 2710 (d)(1)

"INDIAN LANDS" means:

- a) "all lands within the limits of any Indian reservation" and
- b) "any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power."

TRUST LAND ACQUIRED AFTER 10/17/88

§ 2719

2 PART DETERMINATION

Secretary determines (1) "is in best interest of tribe" and (2) "not detrimental to surrounding community" PLUS Governor must concur in that determination
§ 2719 (b)(1)(A)

THE SETTLEMENT OF A LAND CLAIM

§ 2719 (b)(1)(B)(i)

RESTORED TRIBE RESTORED LANDS

"The restoration of lands for an Indian tribe that is restored to federal recognition."
§ 2719 (b)(1)(B)(iii)

THE INITIAL RESERVATION OF AN INDIAN TRIBE RECOGNIZED THROUGH THE FEDERAL ACKNOWLEDGEMENT PROCESS

§ 2719 (b)(1)(B)(ii)

3 Approved

4 Approved

12 Approved

3 Approved

The approval process is not easy for tribal governments to complete, nor is it easy for interested citizens to understand. It is not a simple linear process where one step predictably leads to the next. This can be frustrating for people familiar with local regulation, where great attention is placed on predictable outcomes, multiple opportunities for public input, and streamlined processes.

Decisions made by the tribal government, the Bureau of Indian Affairs, the Indian Gaming Regulatory Commission (IGRA), or the state can cause a proposal to travel down a new path. Because it is complicated and time consuming, the tribal government often takes several actions at once. It may draft an Environmental Impact Statement while also submitting gaming ordinances to the IGRA. It may develop memorandums of understanding with local education systems or governments at the same time it works on finance for the land use development. The timing of each decision may influence the next course of action.

Taken simply, the Cowlitz tribal government must have land taken in trust by the federal government in order to have gaming on it. Ultimately, the Department of the Interior will consider the trust application based on the EIS and many other factors. If the trust application is rejected, there is no development of any kind. If it is approved, there may be gaming or the Department of the Interior may consider the environmental impacts of gaming to be so significant that gaming is prohibited. If the trust application is accepted, the land may also be designated as an initial reservation.

If the land is taken into trust and gaming is a possibility, the Indian Gaming Regulatory Authority (IGRA) has another regulatory path for navigation. IGRA makes its decisions on gaming based on how the land was placed into trust and type of gaming requested. Restored tribes and lands that are initial reservations are allowed gaming. Because the Cowlitz tribe is a restored tribe, they do not have to meet the "two-part determination." The "two-part determination" requires IGRA to find that the gaming is in the best interest of the tribe and not detrimental to the surrounding community and the governor of the state must approve.

IGRA also looks at the type of gaming proposed. If the tribal government proposes Class 2 gaming (for example bingo and pull-tabs) it is allowed through a gaming ordinance with federal oversight. Class 3 gaming (for example slot machines and card games) may be allowed with a gaming ordinance, an agreement with the state, and with federal oversight.

Purpose of the EIS

The EIS process provides the decision makers at the Bureau of Indian Affairs (BIA) and the National Indian Gaming commission (NIGC) with valuable information regarding the impact of the tribe's proposal on the environment. Both the BIA and the NGIC are required to review the EIS because taking land into trust is a federal action. Federal

actions need environmental review. There must be alternatives, a discussion of avoidance of effects and mitigation measures.

The purpose of the EIS is to reveal the environmental impacts of the tribe's desire to improve their long-term economic stability and self-governance. The tribe wants to make these improvements by taking land into trust and developing it. Each alternative should be reviewed against two questions:

1. How does this alternative increase economic self-sufficiency for the tribe and can the impacts on the environmental be mitigated?
2. How does this alternative lead the tribe to improved self-governance, and can the environmental impacts be mitigated?

The Cowlitz Draft EIS, therefore, is different from the project level EIS of which local governments are familiar, and is more difficult to review. The environmental impacts are created by the project and its impact on the land. The review, however, is not a traditional project level review where the site plan is examined and detailed engineering and planning solutions are applied to identify and finance mitigation measures. Also different from other EIS, the review considers the economic benefit to the tribe and the potential for enhancing self-governance.

Assumptions Used by County in Review of the Draft EIS

Clark County used the following assumptions in the review of the EIS:

1. The Cowlitz are a federally recognized tribe.
2. The Cowlitz are recognized as a restored tribe.
3. The Cowlitz have no land in trust or reservation status.
4. The current request for a reservation, if granted, will constitute an initial reservation for the tribe.
5. All reviews take place against currently adopted laws and currently applied policies and procedures at the federal, state and local level.
6. The MOU between Clark County and the Cowlitz is an implementation tool for use if the land is taken into trust or reservation status. It may be applied as a mitigation measure, but, in and of itself, does not eliminate the need for review and identification of mitigation measures.
7. When conflicting sources of data exist, the county will rely upon the sources that are most commonly accepted as reliable.

Summary Observations on the Draft EIS

Appendices 1 through 4 provide detailed questions on the Draft EIS and the Administrative Draft EIS for response by the Bureau of Indian Affairs and the Cowlitz tribe. In the review by the Bureau of Indian Affairs, each response should be identified as a site development issue, as an issue that requires mitigation in the Final EIS. The summary observations and comments, below, capture unifying issues that underlie the detailed responses.

Clark County concludes that this EIS is poorly prepared, relying on poorly conceptualized models, undocumented assumptions, and a lack of understanding of the Washington-Oregon market for gaming or other economic activities. The analysis manipulates and excludes data in a manner that minimizes the impact of a major economic proposal. If this EIS were prepared by the private sector for a private sector project in Clark County, the county would return it to the applicant with guidance to start over and prepare a credible document.

This document is a disappointment to the participating jurisdictions involved in the review process. The Department of the Interior would be justified if it returned the document to the consultants and demanded a professional EIS at no additional cost to the agency or the tribe.

Clark County concludes that Alternatives A and B and E (large casino-resort alternatives) do not serve the tribe's interests, nor do they serve the interests of the community. Alternatives C and F do not serve the tribes interests by creating limited or no income.

We conclude that Alternative D does not serve the tribe simply because the EIS includes a business park alternative that is unrealistic in the local marketplace. If Alternative D were revised to respond to local market conditions, it might effectively serve the needs of the community and the tribe, with environmental impacts that can be mitigated with readily available tools.

Clark County requests addition of a new, diversified alternative that provides a mix of land uses (for example retail, office, light industrial and a casino) and higher wage jobs.

The Alternatives

The Draft EIS concludes that Alternatives A and B (large Casino-Resort) create the greatest economic benefit to the tribe because they create the largest revenue stream. Alternative E is another large casino option on a site the tribe does not hold.

It appears as though the EIS preference for Alternative A is contrary to the principle of enhancing the tribe's self-governance. The casino management is contracted to the Mohegan, an organization with considerable experience in the preferred alternative's

business. This will allow the Cowlitz tribe to focus on its self-governance as it copes with a rapidly changing economic situation and will provide a separation between the management of the business and the management of the tribe.

The EIS does not clearly present financial data related to the partnership with the Mohegan tribe, but it appears as though Alternatives A, B and E work against self governance, however, because they:

- a) take financial resources away from the tribe to support the management contract;
- b) Make the tribe reliant upon an outside organization for management of their primary asset.
- c) Limit the tribe's meaningful interaction with local education and financial institutions that could support of the asset and their long-term financial health.

Alternative D is a business park option with characteristics that are unreasonable in the Portland metropolitan area. It proposes over building in this market to an extent that no serious investor would entertain participation. The Alternative is not flawed because of the proposed use, it is flawed because of the magnitude and the expectation of immediate build out and profit on the part of the tribe.

The draft discounts Alternative D because there is no inherent "competitive advantage" for the tribe to operate a business park, while statute does provide a competitive advantage in the casino-resort business. The objective of a trust\reservation status with an economic activity is to create better living standards for tribal members and to enhance the opportunity for self-governance. There is no mandate to do this through an activity that has a competitive advantage.

Alternative D is discounted with the contention that there is a lesser probability that tribal members can gain the higher level of education and experience necessary for employment in the business park. Currently, over 80 percent of the employable Cowlitz are employed in a variety of communities in a variety of jobs. It seems reasonable that 100 (the employment projected for tribal members in a casino-resort) could be employed in a business park. Tribal revenue and personal income from a business park should help future education and employment opportunities, giving a greater number of tribal members a higher probability of higher income employment over time. A casino-resort, in contrast, will provide low wage jobs, and no improvement in education will improve access to higher paying jobs on the site.

If Alternative D were re-drafted to reflect local market conditions it would generate less revenue than the Alternative D presented in the EIS. Even in this scenario Alternative D warrants serious consideration because it creates:

- a) Higher wages for tribal members working on the site;
- b) Higher wages for non-tribal members;
- c) No need for mitigation funds relating to gambling that draw away from the revenue;
- d) No need for a management agreement with the Mohegan that takes revenue away to another source.

The deficiencies in the alternatives and their analysis leads Clark County to request that the Final EIS include a new, diversified alternative with a mix of land uses (for example retail, office, light industrial and\or casino) with a mix of higher wage employment.

Appendices 1,2, and 3 include specific questions for response from the Bureau of Indian Affairs.

Tribal Revenue

The Draft EIS employs a gaming revenue estimation model with assumptions and methodologies that are less reliable and applicable than the assumptions and methodologies used by other models. The Draft EIS is also silent on the potential impact of other gaming facilities on the I-5 corridor that might diminish or slow revenue generation.

A close examination of the model used to project gaming revenues reveals that the model over-projects revenue. Application of the more commonly accepted models for gaming project a slower build out rate and smaller market share. The consequences of lower than projected revenue could be serious for the tribe and for the community. Many development forms, including casinos, require substantial upfront investment with income and cash flow projected as quickly as possible. If this does not occur, the tribe may be faced with the need for alternate on-site uses, for example a retail center instead of the RV park. Traffic impacts, public service impacts and fiscal impacts could be significantly different with other land uses.

The Johnson-Gardner report, Appendix 2, should be referenced for specific questions that need response.

Personal Income and Employment

The Draft EIS's estimate of personal income for operating employees is approximately \$28,000. The Draft EIS underestimates the potential need for social services and housing for workers who will make wages near poverty level.

The data in the EIS asserts that the majority of the employees for the low-wage jobs will be existing residents of the county. The analysis ignores the implications of the wage estimate and the local employment market. The Draft EIS masks the practical necessity for the majority of casino-resort workers to move to Clark County. Low-wage workers are inclined to move close to employment to avoid commute costs. Given the differing Washington\Oregon tax structure, it is unreasonable to assume that low-wage workers would live in Oregon and work in Washington. It is unlikely that a casino, which typically draws specialty workers from other casino-resorts, would draw workers from Oregon without relocation. The current commute pattern does not reflect a strong northbound commute trend for low wageworkers.

If the employees are drawn to Clark County from other areas, which seems likely, there is no discussion of how the jurisdictions will deal with the need for almost 3,000 units of affordable housing for new employees and their households. These impacts will ripple to other providers of education and social services. Multiple school districts may be influenced by an influx of children of casino-resort employees. The Draft EIS should address and mitigate the impacts on the jurisdictions most likely to see significant impact and should not avoid this responsibility through definition of the study areas and ignoring local housing and employment trends.

Appendices 1, 2 and 3 include specific questions needing response.

Impact on Resources

By definition, construction of a major development on a rural site will have environmental impacts. Soils and watersheds will be disturbed, wastewater will flow, potable water will be consumed, light and noise will increase. Overall, the EIS does an adequate job of identification of impacts and of addressing mitigation.

Appendices 1 and 3 include specific questions on resources needing response. These detailed comments should be reviewed by the Bureau of Indian Affairs, and each should be identified as a site development issue, or one that requires mitigation in the Final EIS.

Impacts on Transportation

Comments on the transportation element of the Draft EIS can be separated into comments on:

- a) impact of the alternatives upon the tribe's future and the impact on the community;
- b) impacts on the site and surrounding jurisdictions, as would be analyzed in a project EIS submitted for a major development project, and;
- c) relationship between the county MOU, which is cited as mitigation for traffic impact, in comparison to the terms of the MOU.

In all three areas, the Draft EIS fails to adequately portray or mitigate the traffic impacts on the site. When poor transportation modeling is combined with the socio-economic and revenue issues identified earlier, it is difficult to assess the impact of the alternatives on the site.

The Draft EIS does not adequately assess and analyze the transportation impacts of the alternatives on the site, on the surrounding community, on the financial viability of the project or on the tribe's goals for self-sufficiency. The drafters of the document chose California comparables that do not reflect northwest conditions and standards for analysis. The level of service assumptions, methodologies and other factors in the models do not reflect county conditions and therefore detach the analysis from local costing principles, level of service standards, and mitigation already agreed to by the

Cowlitz tribe. The tribe agreed to use county standards when assessing the environmental impacts on the site, but the consulting firm hired to prepare the analysis did not do so in the Draft EIS

The inadequacy of the transportation analysis has a direct impact on the tribe's goals for sovereignty and self-sufficiency, because it masks the costs of potential road improvements and the impact the road improvement commitments may have on the revenue generation (believed to be over projected in the revenue model) and the resulting benefit to tribal members.

Clark County attempted to use the Draft EIS to assess the impacts on traffic conditions such as traffic gaps for turning movements, queue distances, lane storage, etc. This level of detail is regularly applied to project EIS and site analysis. At this level, the impact of the project alternatives is not clear, and cannot be costed or compared to the MOU signed with the county.

The Draft EIS cites the MOU with Clark County as mitigation for the transportation impacts, but in several places, uses assumptions and principles that contradict the MOU. The contradictions but must be remedied for the analysis to support the mitigation the tribe claims is provided in the MOU.

Appendices 1 and 3 include specific transportation questions needing response. In addition, Clark County requests use of comparable Washington and Oregon casinos and resorts in the transportation analysis, specifically including the Tulalip development near Marysville, Washington.

Impacts on Jurisdictions

The EIS defines primary and secondary study areas that lead to an underassessment of the potential impacts of the large casino alternatives on the City of Vancouver, Battle Ground, and Camas. The study area includes adjacent areas of low population and moderately high income. This leads to an appearance of minimal impact, and therefore minimal need for mitigation in surrounding cities.

Very few cities in the United States have the unique tax base of La Center, Washington. Over 60 percent of the tax revenue of this city comes from the private gaming industry. The gaming is in small, privately owned and operated card rooms. The emergence of a tribal casino on the outskirts of this city has the potential to seriously impact the stability of the municipality in a manner far exceeding the financial implications. The Draft EIS acknowledges a financial impact and offers short-term (10-year) mitigation by providing funds to the city. Locally owned and operated businesses, however, provide more than tax base. They provide community leadership. They provide the sponsorships, relationships and community activities that make a town a viable center.

A large casino resort near La Center, operated by a Connecticut corporation and owned by a tribe that has a minimal local resident population, cannot mitigate the impact of the

loss of local business and leadership through mitigation dollars. The Draft EIS is seriously deficient in its assessment of impact. This impact is significant and adequate community based mitigation has not been identified. La Center, as a city, will be changed forever if the local businesses leave. This environmental impact cannot be ignored.

The Draft EIS produces little discussion of the potential impacts of federal tax incentives for location of non-tribal businesses on tribal land and the extent to which the incentives might impact neighboring jurisdictions and their economies. The federal tax regulations provide cost incentives for development on tribal land. These tools can be powerful incentives for drawing land uses to areas that might not otherwise be attractive for those uses. The potential impacts are not discussed in the analysis of the casino-resort or the business park. This discussion takes on additional importance when coupled with the potential for smaller than projected gaming revenue and pressure to develop alternate land uses.

The draft EIS does not address smoking inside the facility. This is an issue with both economic competitiveness and air quality ramifications. It is not addressed in either context in the document.

Appendices 1 and 3 include specific questions needing response. Appendix 4 includes questions forwarded during the scoping phase that were not addressed.

Mitigation

Throughout the document, the Draft EIS cites the MOU with Clark County as providing mitigation for issues. The analysis, however, selectively applies the principles in the MOU or contradicts them. In a somewhat circular set of arguments, the analysis uses assumptions that contradict the principles of the MOU, concludes that there are no\ minimal\mitigatable impacts, and then claims the MOU will provide the mitigation for the impacts. This flaw is particularly acute in the transportation analysis.

The MOU is an implementation tool that addresses the development of a proposal on the site. Implementation of the MOU may provide one of many forms of mitigation. It should not be cited as a means of dismissing an environmental impact, or as a means to obfuscate transportation impacts.

Conclusion

This Draft EIS, unfortunately, does not adequately describe the alternatives or their impacts. If the analysis is carried forward into the Final EIS, the Department of the Interior will make decisions based on unreliable and inadequate information.

We strongly recommend that the Department of the Interior require the Bureau of Indian Affairs and their consultants to respond to the Draft EIS comments with a thorough re-analysis of the alternatives using industry recognized methodologies with local conditions for comparison. We request addition of a new diversified alternative that provides a mix of land uses (for example retail, office, light industrial and a casino) and higher wage jobs. We recommend timely production of the Final EIS so the important decision-making connected to this proposal can take place.

Appendix 1
Clark County Comments
Cowlitz Casino-Resort Draft EIS
May, 2006

Appendix 1

Clark County Comments

Cowlitz Casino-Resort Draft EIS

May, 2006

The majority of the county comments forwarded for the Administrative Draft EIS were not addressed in the Draft EIS. The county submits Draft EIS comments, in addition to the Administrative Draft comments. Both sets should be considered equally and responses should be provided to each item in both sets.

Page number	Section topic	Comment
3.7	Socioeconomic Conditions	<p>1. The primary area excludes the majority of urbanizing area and the City of Vancouver. Separate Clark County income from that of other four counties. The population of the tribe is so small to realize any potential employment benefits. Given the size and the fact that most live in rural areas, what is the market size for the gaming area.</p> <p>2. Major Employers in Clark County as stated are not in primary area.</p> <p>3. Need to explore how to obtain information on current employment data so that growth in employment can be measured for both native and non-native American. Much of the lower income can be traced to lower labor force participation. It is not clear if the Indian households median family income stated (page 3-7-1), is compared to county, state, or national averages? The number of members dissatisfied with current housing situation and number requesting housing assistance is not consistent. There is no data on current mortality rate.</p> <p>4. The section on property tax and revenues need major work.</p> <p>5. Need to discuss the implication of a major development as proposed which the profits are not taxable and their presence diverts funds from a taxable activity.</p> <p>6. Need to address student enrollment of Cowlitz Indian tribe as baseline condition.</p> <p>7. No discussion of existing condition that included Cowlitz County in regional comment.</p> <p>8. Need to discuss current characteristics of Wildlife Refuge, Paradise Point and the Tri-Mountain. What are the implications of the proposed development on these facilities?</p>
3.13	Aesthetics Setting	<p>9. A building complex larger than any other structure in the county is not consistent with county GMA policies that encourage local character and small town theme. The size, scale, and style of the</p>

Page number	Section topic	Comment
		<p>proposed building did not represent any cultural or tribal heritage or theme.</p> <p>10. The significant size and scale of the building, with reliance on glass increases glare and potential impact on the view shed.</p> <p>11. Description of general land use in the vicinity of the site mentioned an unnamed seasonal creek along the northern border but no identification of measures to mitigate impacts.</p>

Page number	Section topic	Comment
N/A	Figure 2-1	<p>12. There is an additional Department of Natural Resources (DNR) type 4 stream in the southwestern corner of the property. According to the county Habitat Conservation Ordinance, a DNR type 4 water requires a 150' riparian zone. The current analysis appears to indicate a wetland in this location with no reference to an existing perennial stream.</p>
4.5-4	Special Status Fish	<p>13. Special Status Fish, a minimum 25 foot buffer is proposed along the type 5 stream on the north side of the property. The ELS, 2005a report is referenced. However, that report (Appendix L) on page 10 mentions that the Habitat Conservation Ordinance, 40.440, establishes a 150 foot riparian area alongside such streams. In addition, the MOU between Clark County and the Cowlitz Tribe cites the HCO as one of the ordinances to which the tribe agrees to abide. There is an apparent discrepancy between the proposal in the EIS and the requirements of the MOU.</p>

Page number	Section topic	Comment
	Transportation	<p>14. General Comment – All evaluations, assumptions, methodologies, and findings should be consistent with the MOU between Clark County and the Cowlitz Indian Tribe. The traffic impact study (Appendix T) was prepared based on the use of some special thresholds that are inconsistent with the MOU. For example, page 66 of the traffic study (footnote 24) establishes a 10 second threshold and page 66 also references a 5 percent threshold. These thresholds are not consistent with the MOU and should not have been used.</p>
	Transportation	<p>15. General Comment - With respect to mitigation to be performed by the applicant, all mitigation needed for each individual phase of development needs to be completed and operational prior to occupancy of that phase. In addition, all mitigation is the responsibility of the developer and</p>

Page number	Section topic	Comment
		payment of a partial share by the developer may not be adequate to fully fund each required improvement.
	Transportation	16. General Comment – With respect to mitigation to be performed by the site developer, all road improvements need to be made consistent with the standards and practices of the owning jurisdiction (e.g. WSDOT, Clark County). In some instances this may include designing to and accommodating future year traffic levels.
	Transportation	17. General Comment – The Draft EIS contains numerous SYNCHRO model runs analyzing intersection levels-of-service. These model runs were not reviewed by the County as part of the Draft EIS review due to preliminary nature of the work and due to the uncertainties regarding the underlying assumptions, methodologies, and other factors as stated in these comments. Detailed reviews of the final model runs will be made as part of the later development review process and compared with the MOU requirements.
	Transportation	18. General Comment – The results of the traffic evaluations contained in the traffic impact study focused primarily on intersection level-of-service. Whereas intersection LOS is the primary performance standard referenced in the MOU, proper consideration needs to be made of signal timing issues, the presence and absence of traffic gaps for turning movements, queue distances and available turn lane storage, traffic signal interferences with adjacent intersections, pedestrian clearance intervals, etc...
	Transportation	19. With respect to the definition of LOS for unsignalized intersections, the County views each minor approach independently with their own separate LOS characteristics that need to be maintained and mitigated. The County does not assign the worst LOS to all minor approaches.
	Transportation	20. General comment – With respect to the functional classification of roadways in the vicinity of the development site, adjustments will need to be made to the County's Arterial Atlas to properly support development of the site. Until the actual changes are adopted by the County, specific development opportunities and mitigation requirements can not be identified.
	Transportation	21. General comment – With respect to roadway widths and geometry, turn lane requirements, traffic signal and intersection spacing, and driveway locations, all public roadways will need to be designed to accommodate future background growth in the greater site vicinity.
	Transportation	22. General comment – The movement of pedestrians within the development site needs to be better defined. For example, the approach for safely conveying pedestrians from the RV location across NE 319 th Street to the Casino location needs to be better defined.
	Transportation	23. General comment – The site trip generation estimates need to be better understood and accepted

Page number	Section topic	Comment
		by the County. At this point in time, the County is not comfortable with the estimates contained in the Draft EIS including those for the casino facility, the hotel, the event center, and employment trips. For example, the study relies heavily on the Shingle Springs Complex traffic study for trip generation estimates. However, it is the County's understanding that Shingle Springs is presently in litigation regarding those same trip generation estimates. In addition, the study has made limited use of actual traffic counts from existing suburban location complexes on the outskirts of large population centers. The Tulalip complex north of Marysville, Washington could have been used in the analysis, but was not.
	Transportation	24. General comment – With respect to the trip generation estimating for the site, County staff suggest a phased approach as part of the final development review process for the proposed development. In phase 1 of the process, the applicant would work with the County and WSDOT to develop a trip generation profile for the site. Once that estimate is agreed upon by all parties, the analysis team could begin the phase 2 work which would include the modeling, analysis, and mitigation work.
	Transportation	25. General comment – Multiple peak hours need to be considered in the traffic impact study. These peak hour scenarios include the PM peak hour of the background traffic, the peak hour of casino bound traffic, and the peak hour of event center bound traffic.
	Transportation	26. General comment – Some of the alternatives require the vacation of some portions of existing public roadways and rights-of-way. Road vacations require the approval of the Board of County Commissioners and such actions are legislative and can not be predetermined.
	Transportation	27. General comment – The comments described above are based on County staff review. Comments from other jurisdictions, such as the WSDOT, need to be considered by the applicant.

Page number	Section topic	Comment
3.2	Soils	28. High erosion risk due to soil type, surface water level, with drainage into "unnamed stream" that feeds East Fork Lewis River, and McCormick Creek, both already polluted. Need evidence mitigation will be adequate, upstream and downstream monitoring to ensure private wells protected.
3.3.1	Water quantity	29. Impact on private well owners of additional pumping by CPU in terms of water quantity for them? History in 1995 of decline in water levels for wells due to municipal water draws.

3.10	Water quantity	30. Does CPU already have water rights to meet need or will it need Ecology approval? What would be the timeframe? Impact if not granted?
4.2	Geology and soils	31. Erosion could drain sediment and pollutants (fuel, grease, etc.) into waterways, further degrading water quality. 32. Decreased recharge, and increased run off due to impervious surfaces is of concern due to vulnerability of adjacent streams and watersheds.
4.3	Water resources	33. Recommend water quality monitoring not just during construction phase, but after operation is underway for nitrates, bacteriological, VOC's, temperature.
4.7.1 Page 5	Problem and pathological gambling	34. Data from older, primary care patients indicates 10.9% have at-risk gambling behaviors per study in Ann J of Geriatric Psychiatry 2005 Jan; 13(1). This is potentially large issue given aging of population and suggests intervention of 1 additional counselor will be woefully inadequate.
4.10	Public health and safety	35. Will there be full medical coverage for employees and tribal members or will area hospitals have to absorb more unfunded clients? 36. Health impact really only looks at crime... Will there be increased need for mental health and chemical dependency services for casino customers, more bankruptcy, more poverty?

Page number	Section topic	Comment
Appendix T; p.106	Traffic Impact Study Table A-2: Average Daily Traffic	37. Other County staff are reviewing operational and technical data. The focus of this review is the functional classification of affected roadways under each of the alternatives.
"	"	38. NW 319th St. west of I-5 is currently classified as a Rural Major Collector on the County's Arterial Plan Map. The average daily traffic projections for Alternatives A - D range from 31,050 to 39,050 trips per day in 2010. Based on the design criteria in Table 40.350.030-2 in the Unified Development Code, these projected volumes would require a six lane roadway, either a Parkway Arterial or a Principal Arterial. The future classification of NW 319th St. should be considered in the roadway's design, including intersection spacing, grade, centerline radius, access and sight distance.
"	"	39. Traffic on LaCenter Road east of I-5 will increase to about 14,000 trips per day under Alternatives A - E. Analysis of this roadway should be based on the design criteria for a Minor Arterial (M-2cb). LaCenter has proposed that the area adjacent to LaCenter Rd be included in their urban growth boundary this year.
"	"	40. LaCenter has also proposed that some areas west of the I-5 interchange be included in their urban growth boundary. NW 31st Ave. is currently classified as a rural major collector.

Page number	Section topic	Comment
"	"	<p>Projected ADT volumes in Table A-2, if correct, would not warrant more than a rural minor collector classification. Any re-alignment proposals should take into account the current road classification as well as the future urban standard.</p> <p>41. Pioneer St. east of I-5 is classified as an urban collector. Every alternative shows daily volumes in 2010 that exceed the design volumes for a collector. For Alternative E, a six lane Parkway or principal Arterial would be required. All other alternatives would require at least a four lane Minor Arterial.</p>
Appendix T, p.107	Table A-3: PM Peak Hr Traffic	<p>42. For Alternatives A – D, the PM peak hour volumes given for I-5 between LaCenter and Ridgefield exceed the nominal capacity of an interstate with two-lanes in each direction. For Alternative A – E, the PM peak hour volumes show I-5 south of the Ridgefield interchange will exceed 4,000, which is the nominal capacity of a two lane interstate. No mitigation to these mainline highway segments was proposed.</p>

Page number	Section topic	Comment
3.3-7	Groundwater recharge	<p>43. No mention is made of the project's impact to groundwater recharge and subsequent loss of seepage to wetlands and streams.</p>
4.3-5	Recharge	<p>44. Weak description of mitigation for lost groundwater recharge. Routing runoff to detention facilities and wetlands will likely have minimal ability to sustain predevelopment recharge rates. The project will have significant effects to diminish groundwater recharge. Site conditions described in Chapter 2 stated that there was about 20 inches per year of rainfall infiltration to recharge groundwater. This recharge would be lost to much of the project site due to interception by pavement and roofs and routing to the stormwater facilities and surface water outfalls. The effect would be to reduce the amount of water entering aquifers and reduce the base flow into streams and seeps to wetlands. This amount of recharge loss can be estimated. Methods are available to mitigate for lost groundwater recharge and are included in the state's Western Washington Stormwater Manual (2005) and stormwater management manuals from many other parts of the country.</p>
4.3-1	Stormwater	45. Clark County Code is not the current state standard. Apply the DOE stormwater

		manual for Western Washington (2005).
4.3-5	groundwater	46. The project will excavate earthen materials to provide for a two level subterranean parking garage and other facilities. How will this impact water table levels and groundwater seeps to streams and wetlands and near the site?
5.2-4	groundwater	47. Are there any mitigation measures for potentially unstable slopes or unstable stream banks that may be caused by increased stormwater runoff to the unnamed stream?
		48. what are the mitigations for lost agricultural soils?
		49. BMPs listed may not be appropriate for conditions in SW Washington. For example some forms of chemical treatment to settle soil particles. An alternative is to avoid significant land disturbing activities during wet seasons and phase construction to minimize the amount of bare earth that requires erosion control management.
5.2- 15	Water supplies	50. What is the impact on existing private wells due to aquifer water level declines to serve the project's needs?
		51. What are the environmental impacts of building water lines to serve the site?
		52. Describe the water quality of the alluvial aquifer on the Lewis River flood plain and its suitability for proposed project uses.

Page number	Section topic	Comment
4.10-1 and 4.10-2	Public Services – Alternative A (Water Supply)	53. This section indicates that CPU water could provide only 1,700 gallons per minute for fire protection, requiring on site storage supplied by a reservoir to make up the missing portion of 2,500 gpm requirements to be supplied by recycled water from the on-site wastewater treatment plant. In one of the options presented, however, the site may be served by a public sewer system. It should be indicated that an on-site reservoir will be required regardless of the alternative chosen (A-D for the La Center site) for fire protection needs. There may also be a need to restrict the use of the water in the reservoir for fire protection use only if this is the case.
Site Plans in	Alternatives	54. None of the site plans indicate the location of the reservoirs and associated pump

Chapter 2	Alternative E – Ridgefield Interchange Site – Water Supply	equipment for fire protection.
2-30		55. In the second paragraph, a statement is made ‘no water storage on site is proposed’. However, in Section 4, 4.10.5 under water supply for Alternative E, there is a statement in the second paragraph on page 4.10-22 ‘additionally, an on-site reservoir with a capacity of at least 120,000 gallons would be required to ensure adequate fire flows of 2,500 gpm for 2 hours’. This contradicts the information in Section 2.
Topic	Comment	
Sales Tax	56. The EIS does not address diversion of sales tax from cities in the county or surrounding counties.	
Gaming revenue	57. The EIS projects gaming revenue based on Washington statistics for income. The income statistics are heir than the Clark county area because elf incomes in King county. The Portland metro area incomes are more representative of the incomes and the impact.	
Gaming revenue Impact on land use and transportation	58. The modeling for revenue assumes that the existence of the gaming machines will create a market, and that patrons will come simply because they exist. This is not a professionally reputable way to project revenue. The modeling should include assessment of the size of the local gaming market and the competitive nature of other gaming (both tribal and non-tribal). The inflation of the gaming revenue leads to an unrealistic picture of how quickly the facility will reach profitable levels, this in turn leads to unreliable estimates of the timing of transportation impacts at the site, unreliable employment estimates, unreliable estimates of the tribe’s ability to mitigate their impacts, and unreliable assessments of the incentives provided to the tribe to switch to alternate land uses such as retail in the short term.	
RV park	59. The RV parks under uses the site when it is viewed in terms of the potential revenue that could be made in gaming or retail use. If the gaming revenues are inflated and growth is slower than projected in the EIS, the tribe may have incentive to add retail uses to bolster income in the short term. More retail will create more traffic, which means the traffic impact assessments are understated.	
Business park alternative	60. As presented in the EIS, the business park alternative is not financially feasible, and therefore is not a real alternative. First, this is not a class A office location, yet the alternative includes almost 7 years of current class A office growth in this one location. It is not likely that any serious investor would participate in this kind of venture. This is not a real alternative. The tribe should revisit the EIS and create a viable alternative that creates revenue for their needs, is reasonable in the Clark county marketplace and contains alternate land uses.	

Topic	Comment
Labor pool: construction	<p>61. The EIS does not discuss the impact of this large construction project on surrounding communities. A project of this magnitude could drain the local labor market pool. Economists in the area cite a local shortage of construction equipment and workers. Costs fro all project labor could increase because of competition. In addict, workers may be recruited, and need to stay in the community for the construction period, and beyond. The impact of importing and housing construction tabor on neighboring communities is not discussed in the EIS.</p>
Labor force: operation	<p>62. The income masks the impact on surrounding communities of the potential import of nearly 3,000 workers making \$25,000 per year. Most casino workers have a unique skill set and are drawn from other gaming facilities. Because of the low incomes of casino powers, they tend to relocate near a casino or are drawn from the immediate vicinity. The labor pool in Ridgefield or LaCenter is not of sufficient size and character to fill the need. Casino workers in Oregon are more likely to relocate to Clark County than to commute because of the income tax and distance. The EIS claims 90 percent of the workers will come from Clark County, but does not substantiate that claim, which is not supported by the regional experience, at any time.</p>
Comparable operation	<p>63. The EIS uses California comparables and ignores the experience of the Tulalips in Washington, which manage a far more comparable operation. This omission leads to further distortion of the labor market, traffic, and potential employment relocation impacts of the development.</p>
Education	<p>64. The Cowlitz have an agreement with Clark College to train employees for casino work. The Draft EIS does not indicate how many employees will be trained each year and how the training program supports or conflicts with the assertion that most employees in the development will be from Clark County</p>
Health	<p>65. The text does not adequately discuss the casino-resort's status as smoking or non-smoking and the implications on revenue forecasts.</p>

Appendix 2
Clark County Comments
Cowlitz Casino-Resort Draft EIS
June, 2006



J O H N S O N
G A R D N E R

MEMORANDUM

DATE: June 1, 2006

TO: Ms. Marlia Jenkins
COMMUNITY DEVELOPMENT
CLARK COUNTY, WASHINGTON
1300 Franklin Street
Vancouver, WA 98660

FROM: JOHNSON GARDNER, LLC

SUBJECT: Review of Economic Issues Discussed in the Draft Cowlitz Casino Project Environmental Impact Statement (EIS)

JOHNSON GARDNER was retained by CLARK COUNTY, WASHINGTON to review the Draft Cowlitz Casino Project Environmental Impact Statement (EIS) for economic issues and to provide comments and questions for consideration by Clark County. This memorandum is a summary of the main points and issues of concern identified by JOHNSON GARDNER in execution of this assignment.

BRIEF SUMMARY OF ISSUES AND CONCERNS

The following are the six primary concerns and issues we identified after review of the Draft Cowlitz Casino Project EIS.

- Can large-format retail be built in place of the planned Casino RV Park or replace it at a later date? RV Parks are unusual in the Pacific Northwest casinos and non-existent at Tribal Casinos identified in California while big box retail has been built next to casinos on Tribal land in Washington.
- Alternative D – Business Park has significant market feasibility problems, rendering the Alternative lacking in value as a comparison.
- Casino gaming revenue estimates merit further explanation and reconciliation with alternative analysis that indicates less support for a facility of the size proposed and little support for conference facilities.
- Population impacts may likely be underestimated given the labor force impact analysis conducted, which finds the locally unemployed and commuters from Oregon will fill jobs, a significant portion of which will pay \$21,000 to \$28,000 annually.
- The EIS produces little discussion about the potential impacts of federal tax incentives for non-Tribal businesses to locate on Tribal land, and to what extent those incentives will impact local economic growth.



- Public service impacts are potentially underestimated as a result of potential job in-migration underestimates and inappropriate public service case studies of higher-end Tribal resort casinos in California..

PRIMARY ISSUES AND CONCERNS

JOHNSON GARDNER identified six primary areas of interest or concern about which we recommend CLARK COUNTY ask for additional details, elaborated or revised impact analysis, or potentially revised mitigation agreements with the Applicant.

A. EXTENT OF RETAIL DEVELOPMENT AND COMMITMENT TO THE PLANNED RV PARK

A review of the Casino alternatives indicates plans for a 200-space RV Park with improved facilities and utilities for long-term stay. Based on a review of California tribal casinos utilized as case studies in the EIS and our experience with Indian gaming facilities in the Pacific Northwest, we find the plan for the RV Park as described to be a curious inclusion.

Our question for the Applicant and the County would be what flexibility the Applicant would have with regard to developing the portion of the property planned as an RV Park as an alternative use. JOHNSON GARDNER is unaware of any “newer” tribal gaming facility in the Pacific Northwest that has developed a formal, long-stay RV Park. We would first note that none of the six California tribal casinos case studied elsewhere in the EIS feature RV Parks to attract and retain visitors. This is likely due to the business model of those casinos as higher-end destination resorts featuring spas, deluxe accommodations and generally appealing to a demographic different from the RV target market.

The Tulalip Casino adjacent to Marysville, Washington – in JOHNSON GARDNER’s view the most comparable facility to the proposed Cowlitz casino yet not utilized as a case study for impact analysis - has free “RV parking,” but without utility hook-ups and a stay limit of seven days. The Tulalips development does, however, host two big box retailers, most prominently a Wal-Mart Supercenter, which has a company policy of providing after-hours RV Parking without utilities. This is important, as the proposed Casino site is a highly visible destination along Interstate 5 in Clark County, highly conducive to significant retail development if permitted. Retail is generally also a financially higher and better use for freeway-side land than an RV Park.

B. QUESTIONABLE FEASIBILITY OF ALTERNATIVE D - BUSINESS PARK

After review, JOHNSON GARDNER finds Alternative D – Business Park to be highly problematic from a market perspective. We do not, therefore, find it to be a reasonable Alternative for EIS consideration. Alternative D proposes 1.59 million square feet of Class A office, business park, and warehouse/distribution space.

A comparison to Clark County’s existing inventory of such commercial and industrial space indicates that this Alternative alone, miles from Clark County’s central economic core featuring comparable development, represents the following:

- A full 25% increase in the countywide inventory of speculative Class A office space;
- A full 30% increase in the countywide inventory of speculative business park space; and



- Would require *seven full years* to absorb/fill with employment provided no other comparable space is built anywhere countywide in the duration based on recent, recorded market activity for such development.

JOHNSON GARDNER finds this Alternative as configured to deviate significantly from industrial and office market realities in Southwest Washington and, therefore, find it to not provide a meaningful development alternative for public consideration.

Alternatively, given visibility and access to the site from Interstate 5 and the growing population of north Clark County, JOHNSON GARDNER does suggest a large retail center, or a mix of uses including significant retail development, to be considered as a more useful EIS Alternative.

- A retail center would similarly serve as a destination and for resident and non-resident/visitor spending not unlike the Casino alternatives;
- Direct traffic impacts, public service impacts, fiscal impacts and economic impacts would likely offer greater comparability as a result of the similar orientation as a visitor and resident spending destination; and
- The magnitude, character and pay of many jobs created by a retail center would be not unlike that of the Casino alternatives,

C. QUESTIONS ABOUT GAMING REVENUE FIGURES

In Chapter 4.7 of the Draft EIS, a comparison of direct annual gaming revenue estimates between the development alternatives is provided. The EIS chapter demonstrates projected gaming revenue ranging from \$244.1 million to \$437.2 million annually and cites the E.D. Hovee technical Economic appendix as the source for this information. *We find this information and reference curious for the following reasons:*

- E.D. Hovee conducts a sensitivity analysis of gaming revenue, utilizing somewhat arbitrary assumptions, to provide a potential range of gaming revenue at the facility. In fact, the highest estimated gaming revenues documented by Hovee are the figures cited in the EIS, despite the fact that Hovee makes no conclusion about the most likely revenue scenario.
- The EIS further fails to consider the likelihood or impact of lower gaming revenues than the top-end estimates cited.
- The top-end gaming revenue figures cited are estimated by adjusting Mohegan Sun casino revenues in Connecticut downward by the difference in Connecticut and Washington income levels. We find that the comparison would be more useful if the Portland metro area/Clark County average income level were utilized, as King and Snohomish Counties are not indicative of likely household income for most Cowlitz facility visitors.
- There is no timeframe discussed for how long it will take for the casino to generate any revenue figure, much less the top-end estimate cited in the EIS.
- There is no discussion whatsoever of the likely competitive effects of two off-reservation tribal gaming facilities and one non-tribal gaming facility proposed in the Portland metro/Clark County vicinity.

JOHNSON GARDNER also finds the following issues or omissions worthy of further analysis or elaboration:



- The EIS asserts with little evidence that the Cowlitz facility will not decrease other tribal gaming visitor traffic (Grand Ronde & Richmond, failing to mention Lincoln City) from the Portland metro area because of their 80+ mile distance. A significant body of market work, primarily conducted by consulting firm ECONorthwest, generally concludes that driving distance for Indian gaming in the Pacific Northwest is up to 150 miles, placing the Cowlitz facility well within the broader competitive market area and direct competition for Southwest Washington/Portland metro gaming dollars. Commensurate negative impacts upon these other Tribes would be of necessary discussion, accordingly.
- The Hovee economic appendix confusingly analyzes the Primary Impact Study Area (La Center, Woodland & Ridgefield) and Secondary Impact Study Area (Cowlitz & Clark Counties) with regard to various economic and fiscal impacts of the facility. However, the EIS and the Appendix freely rely on population south of the Columbia River for gaming expenditure impact benefits of the casino and necessary labor force as will be discussed later. Consistency on this issue would be of value.

We would further encourage Clark County to consider a stronger reconciliation of the EIS and Economic appendix with the 2006 "Alternative Site Analysis for Trust Land" Study by Bob Whelan of ECONorthwest, which directly casts doubt on many assumptions, market findings and gaming revenue conclusions made by the EIS regarding the Cowlitz facility. The study utilizes an independent and deterministic gaming model to forecast potential, sustainable gaming revenue given local population, traffic, income, wealth factors, competitive venues, and other variables. It is the understanding of JOHNSON GARDNER that the study's analysis of negative impacts upon La Center card table operators led to mitigation agreement(s) between La Center table operators, the City and the Applicant.

It is our view that the potential consequences of lower-than-expected gaming revenues is of interest to Clark County, as that may include substantial programmatic changes to what are now described as the Casino Alternatives. As a financial venture, development of the Casino complex – like many other development forms – requires substantial upfront costs, with income and cash flow occurring as fast as possible and growing as much as possible after construction to justify the risk and cost of the development. Accordingly, should the casino generate lower-than-expected gaming revenues, the following issues would present themselves:

- Alternative on-site uses with greater significant income potential would likely be pursued by the Applicant to mitigate lower gaming cash flow, most likely large-format retail in place of the RV park in the view of Johnson Gardner;
- Traffic impacts, public service impacts, economic impacts, population impacts, and fiscal impacts to name a few would likely be significantly different if large-format retail were developed in place of the RV Park.

Given the failure of the EIS to adequately consider third-party study of I-5 corridor gaming and the potential effect of various tribal and non-tribal gaming proposals elsewhere in the Clark County and Portland metro area, the EIS is silent about the impacts and implications of a significant change in use on-site resulting from less-than-documented gaming revenues.

E. CONCERNs ABOUT MISESTIMATED POPULATION AND INCOME IMPACTS



JOHNSON GARDNER has identified a number of inconsistencies, questions or items for clarification with regard to the EIS and Economic appendix estimates of wages paid by the proposed Casino, household incomes, labor force sufficiency to fill jobs, potential for relocation of households for jobs, and impacts to public services (schools, etc.) resulting from population impacts. *In total, we find that inconsistencies or items meriting clarification indicate that population impacts to the primary and secondary study area are likely underestimated.*

We recommend CLARK COUNTY seek clarification on the following Economic Appendix and, therefore, EIS points or items:

- IMPLAN predicts an average wage of \$28,000 at the casino including tips, yet the Washington Employment Security Occupational employment data in Economic Appendix 10 (Casino occupation classifications) clearly can be tied the State wage data to the contrary of what the Economic appendix labor analysis asserts. Why was this not done?
- An example is non-management “food prep & related,” the largest job group created by the project at 763 jobs (24% of all jobs). State data for 2004 online indicate this occupation earns \$9.91 (food prep.). The analysis does not reconcile how average pay at the facility will be \$28,000 when 24% of all jobs created by the Casino, and not likely earning tips as would casino service workers, will earn 25% below the \$28,000 average.
- If indeed the Casino will pay wages higher than comparable industry sectors or occupation classes in the Primary and Secondary study areas (Southwest Washington), there is no discussion of labor impacts to existing employment earning less for similar labor skills.
- Given the fact that Casino jobs are expected to pay more than average for relatively low or moderate-skill occupations, is it reasonable to assume that local unemployment in the Study Areas will primarily satisfy employment need as opposed to labor in-migration or job substitution?
- Would not higher pay truly attract the better skilled in those occupations and, therefore, more likely to already be employed? Would existing study area employers be negatively impacted from employees changing similar skill jobs for higher pay/tips?
- How does the natural, structural rate of unemployment affect the ability of the unemployed labor force affect the ability of the Casino to hire? Would this not create upward wage pressure for comparable employment in the study area?
- Would any of this create differential impacts to wages, employment and unemployment between workers attracted from Cowlitz County and from Clark County, the former with lower average wages than the latter?
- The Appendix concedes that 758 jobs (24%) created need to be filled by persons presently residing outside of Southwest Washington. 63% of these in-migrant jobs are in non-management food prep and non-management personal care/service occupations, paying between \$21,000 and \$28,000 annually, or largely below Casino average, based on Washington Employment Security data. Is it reasonable to assume these jobs will be filled by Portland/Oregon labor force commuters, whose average pay is above Clark County/Cowlitz County for comparable occupations or many other, lower-skill occupations closer to home?



- Is it reasonable to assume that these jobs, likely low- and moderate-skilled due to lower pay, will be filled by commuters from Oregon instead of Oregon residents moving to Washington to avoid traffic across the Columbia River and Oregon income tax?
- Is it reasonable to assume that 30-minute drivetime commuters in Multnomah County, Oregon are lower-skill workers rather than high-tech employees 30 minutes away from the Washington County high-tech corridor or high-tech employment in East Multnomah County or even East Clark County?
- Why was the labor force impacts of the Tulalips Casino in Marysville, Washington not identified as a case study when it is likely the most comparable development to the Cowlitz facility? Tulalips Casino is on the I-5 Corridor at the northern fringe of the King/Snohomish urban area, adjacent to Marysville which has historically had significant retail sales leakage problems, and targets similar demographics as signaled by the Cowlitz project given the RV/motorist amenities as opposed to California Tribal Resort casino orientations?
- Generally speaking, how does the Casino proposal better benefit the Tribal members when average pay for employees/Tribal members is significantly lower under than Alternative D – Business Park? Area Tribal government impacts (revenues) differentiated from average Tribal member employment income impacts?

E. LACK OF DISCUSSION OF TAX ADVANTAGES FOR ON-RESERVATION COMMERCE

Federal law, specifically as spelt out in the Omnibus Budget Reconciliation Act of 1993, provides for attractive tax incentives to lure non-Indian business to Tribal land. The impact of these tax advantages on the broader Clark County economy and local, non-Tribal economic development efforts may be significant, but have not been given serious discussion in the EIS.

Tribal land features unique development characteristics that differ significantly from non-tribal land. When put into trust by the U.S. federal government, the land may not be sold to a non-Indian entity, but it may be leased to non-Indian businesses for as many as three sequential terms typically 25 years each.

As a result of not owning land, non-Indian developers and businesses enjoy unique tax and development-related cost benefits for developing tribal land. These are:

- *Employment Tax Credits:* Under the current federal internal revenue code, for-profit businesses on Tribal land are eligible for a tax credit of 20% of wages and benefits up to \$20,000 for employed Tribal members or their spouses.
- *Accelerated Depreciation Schedule:* Under the current federal code, non-casino development on tribal land is subject to an accelerated depreciation schedule for tax purposes. Accelerated depreciation schedules generally allow for 33% to 40% faster depreciation than standard rates.

These regulations provide considerable cost incentives for development on tribal land, which is frequently rural, with no significant industry and exhibiting significant economic distress and unemployment rates. Paired with casino development, these provisions offer potent economic development opportunity to Native American tribes. In other words, these incentives are powerful



tools for attracting development to areas where development would not likely have otherwise occurred.

Alternatively, the Interstate 5 corridor in Clark County is a high-growth region. Business incentives in this high growth area will largely affect a *diversion* of growth to the study site, particularly non-gaming uses, that would more than likely have occurred elsewhere in the study area. Accordingly, the impacts to the growing economies of Clark County and business recruitment efforts of constituent jurisdictions have not been considered.

Furthermore, significant economic growth along the I-5 corridor would offer employment opportunities to Tribal members without a casino. JOHNSON GARDNER finds that a discussion of how the proposed development offers greater or enhanced employment opportunity for Tribal members and how those opportunities outweigh the potential impacts of diversion of growth from elsewhere would be of value.

F. CONCERNs ABOUT MISESTIMATED PUBLIC SERVICE IMPACTS

Given issues identified in Item E above, JOHNSON GARDNER finds that to whatever extent in-migration of labor to fill Casino jobs is underestimated, impacts to public service providers will be underestimated. If jobs cannot be filled by the unemployed in Clark and Cowlitz Counties, who may have difficulty finding work for demonstrated personal or skill-related reasons, or from Oregon workers who would be commuting through significant traffic, potentially lower pay and potentially higher taxes, what is the likely potential for new residents moving to the Study Areas, particularly on local service providers, particularly schools?

- Are estimates of new residents and school enrollment for Primary and Secondary Study Area communities reasonable?
- Would impacts to law enforcement and other emergency service be underestimated commensurately?

We therefore recommend CLARK COUNTY seek further clarification of public service impacts as a result of potential underestimation of population/job in-migration impact estimates.

To document public service impacts, the EIS goes on to rely on case studies of six California Tribal casinos in various parts of the State to estimate law enforcement and other emergency service incidence calls. *JOHNSON GARDNER finds these California case studies problematic as all of the California casinos are higher-end resort casinos with spas, deluxe accommodations, no RV parks, higher-end restaurants and other amenities to better compete with Reno, Nevada (casinos in Northern California) and Las Vegas (casinos in Southern California).*

The greater transient/freeway traffic orientation of the proposed development has strong potential to generate greater law enforcement and first response incidents due to traffic, property and personal crimes. Given the income differential between California and the casino target markets there compared to the proposed development and its target market, is there potential for a different public service incidence and cost burden, i.e. more senior citizens at the proposed development. This may in turn create greater EMS calls and service burden as an example.

Appendix 3
Clark County Comments
Cowlitz Casino-Resort Administrative Draft EIS
May, 2006



proud past, promising future

CLARK COUNTY
WASHINGTON

BOARD OF CLARK COUNTY COMMISSIONERS

Betty Sue Morris • Marc Boldt • Steve Stuart

November 23, 2005

June Boynton
Regional Environmental Protection Specialist
Northwest Regional Office
Bureau of Indian Affairs
U. S. Department of the Interior
911 N.E. 11th Avenue
Portland, Oregon 97232

Dear Ms. Boynton:

Thank you for the opportunity to review the administrative draft EIS for the Cowlitz Indian Tribe Trust Acquisition and Casino Project. Enclosed are comments from ten reviewers in the areas of land use, transportation, fire protection, code enforcement, air quality and water quality. The Clark County Sheriff's Office reviewed the document and will forward comments separately.

The comments raise issues that are significant and important to the complete evaluation of the project. We anticipate that the proponents will make diligent efforts to address these issues in the draft EIS.

If you have questions, please contact Marlia Jenkins at (360) 397-2375 extension 4405, or at Marlia.Jenkins@clark.wa.gov.

Sincerely,

Betty Sue Morris
Betty Sue Morris, Chair
Marc Boldt
Marc Boldt, Commissioner
Steve Stuart
Steve Stuart, Commissioner

BOCC/mk

Enclosure

c: Analytical Environmental Services, Kelly Heidecker
Marlia Jenkins
Curt Wyrick

#2043

ADMINISTRATIVE DRAFT EIS FOR COWLITZ TRIBE PROPOSAL
CLARK COUNTY STAFF REVIEW COMMENTS
NOVEMBER 2005

Reviewer #1

Page number	Section topic	Comment
3.7	Socioeconomic	<p>1. The primary area selection is incorrect because it excludes Vancouver and the majority of the urbanized areas. The Vancouver UGA will be directly impacted by the proposal. The selection artificially selects a largely rural area for comparison, and selects an area with higher average incomes. The text later uses the housing availability of the entire county to minimize the potential housing impact, and uses the population base of the entire area as the employment base to minimize the impact on employment and substitution.</p>
3.7.1	Tribe characteristics	<p>2. Lines 2 and 3. Please separate Clark County residents from residents of the other counties. These other counties are not used in the remaining analysis. Also, where do the remaining 2735 members live?</p>
3.7.1	Tribe characteristics	<p>3. Data presented in the EA included specific tribal income and employment data. See Dean Runyan study in 2004. Page 15 cites member residence. Also, see Michael Roe's needs assessment. Please reconcile the data discrepancies and explain the change in conclusions. Provide data at the greatest level of detail. A supplemental survey of tribal members may be necessary.</p>
3.7.1 page 3	Tribe characteristics	<p>4. Line 2 of paragraph 1. Please specify number of employment requests. 201 could qualify as "hundreds". The text also notes 287 housing requests. How does this relate to total tribal households and housing assistance for the general population?</p>
3.7.2 page 7	Primary area employment	<p>5. Text starts with a countywide (regional view) yet the heading is the primary area.</p>

Page number	Section topic	Comment
3.7.2 page 8	Primary area employment	6. Line 13. Please provide more detail on the Ridgefield employment. It is diversified and the impact on the employment and the port's industrial park and ability to attract future tenants is an important consideration for the Ridgefield alternative.
3.7.2 page 9	Income Table 3.7.6	7. This table does not address income; it may be in the wrong location.
3.7.2 page 9	Property tax and Revenue	8. This analysis is very sketchy. It includes Clark County, but not Cowlitz, which is supposed to be part of the "region". It mentions LaCenter's parcel taxes but says nothing about Ridgefield. It could be improved with a discussion about the distribution of the taxes among the minor taxing jurisdictions so the reader can, later, understand the implications of a major development that is not paying conventional taxes and instead is contributing to select funds. This needs a major re-work.
3.7.2 page 12	Parks and Recreation	9. Again, Cowlitz is not included in regional comments. The characteristics of the Wildlife Refuge, Paradise Point and the Tri-Mountain should be discussed. How big are they? What is the annual patronage? Is there data on the income and type of patrons? Could there be complimentary or conflicting use patterns? In the case of the state park, which is very close to the LaCenter site, what might be the impacts of a casino so close to a state park?
3.7.3 Page 13	Env. Justice	10. Line 12 to 16. Please explain how this information relates to the recent inclusion of a request for "restored" lands. The analysis should also contain a clear explanation of the differing status the tribe is applying for.
3.9. page 7	GMA Plan	11. The text omits reference to the 2004 adopted plan update.
4.7.1 page 1	Operation	12. If 3,151 employees are needed, and the Roe analysis predicts approximately 100 will be Cowlitz tribe members, the remaining 3,000 will be non-tribal employees. Please explain why you believe 3,000 people working at an average wage of \$28,000, which is 50 to 80 percent of median family income does not create an impact on the community as a whole?

4.7.1 page 1	Operation	13.	Please document the source for your projection that 90 percent of employment will come from within Clark and Cowlitz counties. How does this relate to the potential for drawing patrons from the same counties? From the Portland metro area? Please reflect the data in conclusions in the transportation and affordable housing analysis.
4.7.1 page 2	Impacts to local jurisdictions	14.	Assuming that the average wage is \$28,000, please provide an estimate, of how many of the employees will need supplemental public assistance. This observation can be taken from casinos in other locations. Please add this to the socioeconomic analysis.
4.7.1 page 2	Impacts to local jurisdictions	15.	Paragraph 3, line 5 shows sales tax on construction purchases. Please indicate the number of years over which the sales tax will be collected and the projected total by year.
4.7.1 page 5	Problem and pathological gambling	16.	Paragraph 3. While gambling may be available in 48 states, and while La Center has 4 card rooms, it seems disingenuous to state that the presence of what may be the largest casino on the West Coast will have a less than significant impact on problem gambling in the community. The order of magnitude of the availability of gambling, on this one site alone, will be substantial. Please re-think this conclusion based on experience with large gaming operations in similar locations.
4.7.1 page 5	Problem and pathological gambling	17.	Paragraph 3. Page 4 indicates treatment cost for the average problem gambler is approximately \$715. Please address the significance of the \$50,000 fund provided in the MOU. This would address about 70 gamblers per year (assuming no administrative costs and all funds to go to treatment). What other mitigation is planned?
4.7.4 page 11	Business Park effects to tribe	18.	Paragraph 2. The text indicates the tribe has not investigated capital acquisition for a business park. A thorough investigation of capital opportunities is necessary for understanding the viability of this alternative. The tribe successfully found a financial partner for the casino project. Many tribes across the nation are already planning for the time when casino projects no longer have the financial edge they have today. The same effort should be expended to investigate options for a financial partner of similar strength for a business park.
4.7.4 page 11	Business park effects to tribe	19.	Paragraph 2. The EIS says the business park would create less revenue than a casino, but how does the revenue relate to the needs of the 3,000+ members of the Cowlitz tribe? What tribal needs for employment, housing, etc. will not be met over the long term because of the reduced revenue?

4.7.4 page 11	Business park effects to tribe	20.	The average salary of the business park jobs is almost double the salary of the casino jobs. How does the increased salary, which would better support tribal members who work at the park, mitigate the reduced revenue for the tribe as a whole?
4.7.4 page 10	Business park effects to tribe	21.	What impact will the higher salary jobs have on the community as a whole, when the jobs are no longer 50 to 80 percent of median income and instead are near the state and county average for salaries?
4.7.4 page 10	Business park effects to tribe	22.	This section needs re-working to explain, fiscally, why the alternative is not the best option for the tribe and the community given the salary provided, equivalent impact on the physical environment, and minimal social impacts.
4.7.6		23.	Where is the data to support claims that the result is to reduce welfare payments to tribal members?
4.7.8 page 15	Env. Justice Alternative A	24.	Paragraph 2. The conclusion that no low income or minority populations are within the affected area is possible only because the primary area was drafted to avoid the population concentrations in Clark County. Vancouver should be considered.
4.13 page 1	Visual impact	25.	A building in the international style is not consistent with county GMA policies that encourage local character and incorporation of local natural themes. This style is not consistent with a small town, Pacific Northwest style. There is no relationship to local material and cultural background, for either tribal or non-tribal members. The building style, with its reliance upon glass, increases glare and creates a larger impact on the view shed. This will require Mitigation in 5.0. We recommend alternate styling and materials use for all of the casino resort alternatives.
4.15.2 page 2	Geographic Scope	26.	Because the regional territory includes Cowlitz County, the cumulative impacts should consider Cowlitz County also. Please document why the regional territory does not include the Portland metro area, particularly north Portland.
4.15.2 page 8	Cumulative socioeconomic effects	27.	The preferred alternative creates more than 3,000 jobs in one economic sector, gambling, which is supported by the hospitality and tourism industry. In light of the Exposition Center and the Amphitheater at the Fairgrounds, please discuss the cumulative impact of the casino alternative upon the hospitality and tourism industry in Clark County.

	Customer profile	28. The EIS does not describe the anticipated patrons of the casino complex in terms of their number, anticipated length of stay, average expenditure, origin, use of the facility as a link with some other trip purpose, etc. It is impossible to assess the impact on the community unless there is a description of how many additional hotel rooms may be needed off the site, the travel patterns to and from the facility, other non-casino attractions that might be accessed, the revenue flow that underlies the assumptions of total revenue and the relative profitability of each option, etc.
	Trip distribution	29. If 82 percent of trips are coming from the south, it reinforces the discrepancy in the definition of the primary area and the regional area.
	Housing need	30. The text acknowledges that an additional 315 housing units may be needed. It fails to draw the connection to the income level of casino employees, which is 50 to 80 percent of median. Many of these families will need assisted housing. Current capacity to fulfill this need in the "primary area" as drawn by the EIS does not exist. This is a significant impact. If the study continues to use the same primary area, creation of this housing should be included as a mitigation factor in 5.0. Given the number of units, the impact of creating the units on the small cities and a financial\construction mechanism to insure construction by the time of casino opening must be discussed.
	Wetlands	31. The preferred alternative appears to be able to comply with the current Clark County Wetland Protection Ordinance. However, the wetland buffers that have been analyzed may change substantially under the revised wetland protection ordinance. The project proponents may want to use the Department of Ecology (DOE) Rating System and wetland buffers recommended in DOE's updated guidelines to analyze wetland buffers and impacts to wetland functions.

Reviewer #2

Page number	Section topic	Comment
2-10	Water supply	32. What would be the actual amount of water delivered to the projects?
2-11	Waste water disposal	33. Cite the state and federal standards that would apply.

		34. What is the proposed wet and dry season wastewater discharge to tributaries of the East Fork Lewis River?
		35. Note that McCormick Creek and the East Fork Lewis River both have 303(d) listings for fecal coliform and temperature. The Washington State Department of Ecology is conducting TMDL investigations for these pollutants in the East Fork Lewis River watershed.
2-13	Waste water disposal	36. What would be the influence of wastewater disposal on tributary streams or the East Fork Lewis River? Some of these streams may have little or no summer base flow.
2-14	Site drainage	37. How will the county enforce maintenance standards as with other non-county stormwater facilities?
		38. What are the ultimate receiving waters for stormwater discharges?
		39. How would increased runoff and stormwater pollutants influence these water bodies?
		40. What is the combined storm and sanitation line described in third bullet?
		41. How will stormwater discharges meet federal wetland protection standards?
		42. Stormwater facilities on tribal lands would be a federally regulated municipal separate storm sewer system in unincorporated Clark County. These are subject to a Phase I NPDES municipal storm sewer system permit issued by the EPA.
3.2.1	Topography	43. Site elevations range from about 160 feet not 16 feet. Low point is in NE corner.
3.2.3	Soils	44. Description of soils as well drained is not consistent with site conditions, which include shallow ground water and wetlands. Also, this is inconsistent with the geotech report in appendices.
		45. Soils on site are not East Fork Lewis River Deposits. The previous geology section describes the site as Missoula flood deposits. Top soils have formed upon them.
3.2.5	Figure 3.2-2	46. Soil information and orthophoto are misaligned.
3.2.7	Seismic considerations	47. Would it be appropriate to describe the affected environment as being farm land?
3.2.10	Liquefaction	48. No specific mention is made of the magnitude and duration of a probable subduction zone inter-plate earthquake. 49. DNR maps are regional in scope and probably not suitable for making site specific assessments.

		50. No discussion of the potential impact of a subduction zone inter plate earthquake on liquefaction.
		51. The low liquefaction rating appears to be potentially inconsistent with site conditions that include shallow groundwater and fine grained sediment substrate.
3.3-1	Watershed setting	52. Note that the site includes an intermittent stream.
3.3-1		53. It might be worth noting that the "unnamed creek" has its origin south of the site, enters the site's southwest corner, exits the west edge of the site and reenters the NW corner of the site, before it finally exits the NE corner.
		54. Mouth of the East Fork Lewis River is near sea level, not at 200 feet above sea level.
		55. Would wetlands be considered a water resource and hydrology-related feature and described here?
3.3-5	Groundwater	56. Would a description of the project's relationship to groundwater resources be appropriate? Which aquifers will serve the site's needs?
		57. What will happen to existing wells on site?
		58. Describe that converting the site from pasture to buildings and pavement may affect groundwater recharge. This will alter the amount of water available to wells, wetlands, and streams.
3.3-9	Water Quality	59. The discussion of the regulatory environment probably should include the Phase I NPDES municipal storm sewer requirements for tribal lands.
		60. The water quality section should include available information describing receiving waters. Clark County, Clark Public Utilities, the LCFRB, and Ecology have water quality, biological and habitat data on McCormick Creek and the East Fork Lewis River.
3.3-11		61. State which parameters are listed on 303(d).
		62. State which parameters are listed as being of concern.
		63. Describe the current TMDL investigation.
		64. Compare available water quality data to the water quality standards that are put forth in the EI's.
		65. Describe local stormwater requirements to protect receiving waters.
		66. Describe how sewage discharges may affect streams and wetlands.

		67. Describe if water quality affects the use of unnamed stream for human contact for recreation or aesthetic enjoyment in Paradise Point Park
		68. Palustrine emergent wetlands are not 10% of wetlands but 10% of site area.
3.5-8	Special Fish species	69. What is the degree of certainty that the special fish species do not occupy the downstream portion of the stream?
3.5-8	Other.	70. What are the aquatic species in the unnamed stream and how would they be affected by the project?
3.5-2	Figure 3.5-1	71. Figure incorrectly describes roadside ditches and pasture.
3.10-1	Water Supply	72. What is the anticipated water consumption from the project?
		73. Has the utility demonstrated that they can supply this amount?
		74. What aquifers will supply the water?
		75. What off-site environmental elements are affected by installation of water distribution lines from existing distribution system to supply the project?
3.10-2	Waste Water	76. How much wastewater will be discharged from the site?
		77. Where will the wastewater be discharged?
		78. Olson Engineering proposes fecal coliform effluent criteria of 200 mpn/100 ml for monthly and 400 mpn/100 ml weekly for discharges to streams. Effluent at these standards, that is discharged to an intermittent stream would probably cause ongoing water quality violations in that stream during the summer. They would also be difficult to permit in a watershed carrying a 303(d) listing for fecal coliform. By the time this project is in permitting phase, a TMDL waste load allocation for fecal coliform will likely be part of any NPDES permit.
		79. When will the wastewater be discharged?
		80. Will the wastewater discharges affect groundwater?
4.1-1	Geology	81. Describe any potential geotechnical problems on site. Clark County Code may delineate potentially unstable slopes along the unnamed stream.
		82. The geotech evaluation in Appendices Vol. I concludes that: 1) there are concerns about near surface groundwater, sensitive soils, and stability of existing slopes adjacent to drainages but slopes appear stable.

	Flooding	83. How would runoff from the site effect downstream conditions? For example are culverts big enough to pass the expected increases in runoff?
		84. Will increased runoff increase channel erosion in unnamed creek and McCormick Creek?
4.3-1	Construction impacts	85. How would sediment discharges impact streams on and off site?
4.3-1	Stormwater Runoff	86. How would increased volumes of stormwater runoff affect the unnamed and named streams the project drains to?
		87. How would increased volumes of stormwater runoff affect the wetlands the project drains to?
		88. Clark County code references standards that do not incorporate current best available science for controlling the environmental impacts of stormwater runoff to streams and wetlands. The Washington Department of Ecology Western Washington Stormwater Manual (2005) would be the standard for mitigation.
		89. If the site obtains a Phase I NPDES municipal storm sewer permit, EPA may have a differing set of mitigation requirements than county code.
	Stormwater Quality	90. How would pollutants associated with stormwater runoff affect the unnamed and named streams the project drains to?
		91. How would increased volumes of stormwater runoff affect the wetlands the project drains to?
		92. Would the discharge of recycled water require an NPDES permit from EPA?
		93. How would releasing wastewater to the stream in winter and spring significantly improve base flow conditions? Augmented flow would be most significant during the dry summer season.
		94. Recycled water would have little effect to "flush particles, remove debris" because much greater flows will be generated by stormwater runoff from the project.
4.3-3	Groundwater	95. The project will have significant effects to diminish groundwater recharge. Site conditions described in Chapter 2 stated that there was about 20 inches per year of rainfall infiltration to recharge groundwater. This recharge would be lost to much of the project site due to interception by pavement and roofs and routing to the stormwater facilities and surface water outfalls. The effect would be to reduce the amount of water entering aquifers and reduce the base flow into streams and seeps to wetlands. This

		amount of recharge loss can be estimated. Methods are available to mitigate for lost groundwater recharge and are included in the state's Western Washington Stormwater Manual (2005) and stormwater management manuals from many other parts of the country.
		96. The project will excavate earthen materials to provide for a two-level subterranean parking garage and other facilities. How will this impact water table levels and groundwater seeps to streams and wetlands and near the site?
4.5-1	Wildlife	97. If wildlife populations are small to begin with, development would have a significant impact on them.
		98. The section speculates on presence of wildlife in wooded area.
4.5-3	Special Status fish	99. Is the unnamed stream accessible to fish anywhere downstream of the project?
4.5-4	Effects to US waters	100. How would the stream be converted to a perennial stream?
4.10-1	Water Supply	101. What is the impact on existing private wells due to aquifer water level declines to serve the project's needs?
		102. What are the environmental impacts of building water lines to serve the site?
		103. Describe the water quality of the alluvial aquifer on the Lewis River flood plain and its suitability for proposed project uses.
4.15-2	Cumulative effects	104. Shouldn't Woodland be considered if effects spill out of Clark County?
5-2	Geology and soils	105. Are there any mitigation measures for potentially unstable slopes or unstable stream banks which may be caused by increased stormwater runoff to the unnamed stream?
		106. Are there any mitigations for lost agricultural soils?
		107. BMPs listed may not be appropriate for conditions in SW Washington. For example some forms of chemical treatment to settle soil particles. An alternative is to avoid significant land disturbing activities during wet seasons and phase construction to minimize the amount of bare earth that requires erosion control management.
		108. Geotech report in Appendix Vol. I recommends only construction earthen work construction only take place during dry weather.

5-4	Water Quality	109. Add description of mitigation measures for impacts identified in chapter 4 comments. This could include a phase I municipal stormwater permit, conformance to the State stormwater manual (2005), mitigation for wastewater discharges to surface water, stormwater discharges to wetlands, etc.
5-4	Ground Water	110. No mitigations are listed for groundwater impacts. Impacts are: 1) impervious cover causes lost recharge which replenishes aquifers and provides base flow to streams and wetlands. (about .24 cfs) and 2) increased groundwater consumption to provide water will reduce water stored in aquifers and decrease groundwater base flow to streams and wetlands, 3) drains for subterranean facilities impact on groundwater level and seeps to streams and wetlands.
5-5	Biological	111. Chapter 4 and comments identified potential impacts to aquatic life in unnamed stream and the East Fork Lewis River. How are they mitigated?
5-13	Water supply	112. What are mitigation measures for impacts of building water lines to serve the project? 113. What are the mitigation measures for existing private well users whose wells may be impacted by production to serve the project? 114. The prospect of using on-site groundwater is first mentioned here without previous discussion of the affected environments or environmental consequences. 115. Will the project obtain water rights for any new wells?

Reviewer #3

Page number	Section topic	Comment
4.8-1	Transportation	116. The trip generation estimates for the proposed facility appear to be largely based on projected numbers for other casino-resort facilities. However, there is little evidence provided that these projections match actual counts or that these other facilities are located on the fringe of large metropolitan areas. For example, the Chinook Winds Casino is not located near a large urban area.
4.8-3	Transportation	117. The 75% internal trip reduction for the hotel facility is questionable and needs to be substantiated.
4.8-13	Transportation	118. Alternative A would require a vacation of the existing NE 319 th Street roadway and such a legislative action has not been taken by the BOCC nor can it be pre-determined.
4.8-16	Transportation	119. The LOS on the mainline of I-5 in the vicinity of the proposed facility has not been reported in the summary tables.
5.10	Transportation	120. The mitigation improvements are categorized in table 5-1 in accordance with a P (proportionate share) or F (full share). It should be understood that the developer in this instance would be responsible for making and funding all of the improvements initially. Latecomer reimbursement (to the extent allowed under state law) could reduce the actual cost to the developer over time.
5.10	Transportation	121. No detailed review of the draft has been made, however, intuitively, some of the mitigation seems to be inadequate. For example, the NB off-ramp at the 319 th Street interchange has a weekday A/C level-of-service before the project in 2010. It seems unlikely that with the addition of the project traffic, the same LOS can be retained.
5.10	Transportation	122. The establishment of latecomer reimbursement areas or other reimbursement type mechanisms are legislative actions that have not yet been taken by the BOCC and can not be predetermined at this point in time.

Reviewer #4

	Section topic	Comment
4.8-2	Transportation/Circulation	123. Case studies for trip generation should be based on real data from built and operating projects. Chinook Winds in Lincoln City is a poor example as it is difficult to drive to and a considerable distance from population. Is trip generation data from Mohegan Sun in Conn. available?
5-10	Mitigation Measures	124. "Proportionate share" is suggested as the proponent's financial obligation for construction of certain traffic mitigations. This is not an accurate assumption. The county is not prepared to finance road improvements to support the tribal project. The EIS should be revised to reflect commitments under the MOU.

Reviewer #5

Page number	Section topic	Comment
3.8-6	Level of Service Standards	125. Document states "In accordance with the Memorandum of Understanding (MOU) between Clark County and the Cowlitz Indian Tribe, the LOS is considered unacceptable when it falls below LOS D (Appendix C) The MOU states under section 8.1: "Roads and Traffic Circulation. The Tribe will mitigate traffic, safety and circulation issues in conformity with Clark County requirements. For each phase of the proposed development, Clark County will give the Tribe credit for vehicular traffic that would be generated if the Clark County Site was developed based on uses permitted in the

Page number	Section topic	Comment
	Agriculture District. The Tribe agrees to make roadway and intersection improvements to maintain traffic levels-of-service existing prior to each phase less the credit described above. LOS D standards shall be determined based on the most recently adopted version of the Highway Capacity Manual (Transportation Research Board.) (emphasis added)	The MOU level of service is not "D". The text in the light blue highlight is what is referenced in the EIS. The specific LOS requirements described in the yellow text is not included in the EIS.
3.8-7	Table 3.8.3 - Peak Hour Intersection Performance - Existing Conditions	The finite details of the numerical approach would likely require significantly higher levels of mitigation over the changes in letter designation. 126. The freeway interchange at SR-501 at I-5 was recently signalized by WSDOT (Summer 2005). The LOS and delays at those intersections may be very different as signalized. This should be re-evaluated by the traffic engineer for the EIS.
3.8-15	Transportation Policies - Clark County - urban collector roads	127. The paragraph states "NW 319 th Avenue is currently classified as a rural minor collector. With the reclassification of area roadways, it is assumed that NW 319 th Avenue would be classified as an urban collector". Second, Table 40.350.030-1 "Rural / Urban Classification Conversion" does state that rural minor collectors convert to urban collector arterials. However, in this case, given the specific land use being proposed on the west side of I-5 along NW 319 th St. the connectivity of the improved public road may be better suited as a minor or principal arterial. The proposed site plans show 5-lane roads, inconsistent with the County's

Page number	Section topic	Comment
		<p>It would be highly unusual for an urban collector arterial to connect to the I-5 interchange.</p> <p>The issue here is likely to be driveway and intersection spacing on the new / improved public road (NW 319th St). The road will likely operate as a minor arterial serving the proposed intensive land use west of I-5. For congestion management, careful consideration should be applied by the County and the applicant regarding access control and access management on this road.</p> <p>The bulleted list includes several items of note. Including:</p> <ul style="list-style-type: none"> “Lanes must be 11 feet wide”. In fact, the 11-foot lane is a typical minimum width. Given specific circumstances, wider lanes may be appropriate. Such as for widened lanes in curves and at intersections to facilitate truck and bus turning movements. “Roadway must be 38-feet wide”. This is a typical minimum. Additional widths may be appropriate given specific design concerns. <p>“Roadway must have a design speed of 35 miles per hour”. This is a typical posted speed, the arterial atlas actually designates a design speed of 35 mph, with a typical posted speed of 30 mph.</p> <p>“Roadway must have a design average daily traffic volume of 12,000 vehicles”. The table states that the design volume is 12,000 vpd for 2-lanes without center turn lane, and a design volume of 16,000 vpd for collectors with center turn lanes. Note that the tribe is proposing a 5-lane collector road, to which many of these standards in the table may not be appropriate.</p>

Page number	Section topic	Comment
		"Full access intersections must be spaced at a minimum of 275 feet", see previous discussion regarding how this road will likely be operating as a minor arterial, rather than a collector. It will be necessary to design to a higher standard, given the mobility needs of people destined to land uses on this property, and other drivers passing through to other land uses in the unincorporated county. The EIS should accurately reflect this situation.
3.8-16	Transportation Policies – Clark County – Urban minor arterial roads	128. This section also lays out absolute values for items such as lane widths etc. Need to consider the specific site needs, and not absolute values.
3.8-16	Transportation Policies – Clark County	129. Final paragraph of section states "If the Ridgefield Interchange Site (Alternative E) were to be developed in accordance with the proposed site plans.... In this case, the "new" roadway would be classified as an urban collector."
		See previous discussion regarding the 5-lane collector, and how to find the best mobility fit for the roadway network, including access management appropriate for the proposed roadway section.
4.8-4	Build-Out Without Project Condition – Traffic From Other Projects	130. The text of this section states that NE 10 th Avenue will be widened from NE Carte Road to South 5 th Street in Ridgefield, sometime by 2010. This County project was completed in Summer 2005.
4.8-6	Memorandum of Understanding	131. Paragraph states: "The MOU between the Cowlitz Indian Tribe and Clark County includes specific measures to address traffic impacts for Alternatives A, B, C and D. In addition to the LOS standard that establishes an unacceptable LOS for being LOS D and below during peak traffic hours, agreements listed in the MOU guide the determination of when

Page number	Section topic	Comment
		<p>mitigation measures would be implemented. The Tribe has agreed to make roadway and intersection improvements to maintain the existing traffic LOS in the <i>Build-Out Plus Project</i> condition, minus a vehicle credit for the amount of traffic that would be generated if the site were developed based on uses permitted in the current agricultural zone...“</p> <p>The actual language of the MOU is shown above, in the first box of this review. The approved MOU language is more stringent than what is being discussed in this portion of the EIS. As such, it does not match or meet the commitments made in the MOU.</p> <p>An important item to note is that LOS at unsignalized intersections is calculated by each specific movement which has delay associated with that movement. Typically, this is the through, left and right movements at stop signs, plus the left turns across the uncontrolled approaches.</p> <p>All of the tables in the EIS show major and minor approach LOS calculations, which are an average of the each specific approach LOS. The true LOS is the worst case for the intersection. For example, where a stop sign approach has a left lane plus a shared through-right lane, the left turn movement may have a delay of 120 seconds, with LOS F, but the right / through may have an average delay of 10 seconds with LOS B. The average of the LOS's for the approach should be the worst condition, not the normalized average of all the minor movements, which may calculate out to LOS C.</p>
4.8-15	Peak Hour Intersection Effects – Weekday AM Peak Hour	<p>132. The bulleted list includes five intersections predicted to operate at LOS D or worse during the future year, with the development.</p> <p>The list does not include the intersections that will operate at a lower LOS, as shown in Table 4.8-3, to be consistent with the MOU language.</p>

Page number	Section topic	Comment
4.8-16	Table 4.8-3 – Weekday AM Peak Hour Intersection Conditions – Build-Out plus Project Alternatives A and B	<p>133. See blue text above regarding major/ minor LOS calculations under section for page 4.8-6.</p>
4.8-26	Weekday PM Peak Hour	<p>134. The bulleted list includes three intersections predicted to operate at LOS D or lower during the future year, with the development.</p> <p>The list does not include the intersections that will operate at a lower LOS, as shown in Table 4.8-4, to be consistent with the MOU language.</p>
4.8-26	Saturday Peak Hour	<p>135. The bulleted list includes three intersections predicted to operate at LOS D or lower during the future year, with the development.</p> <p>The list does not include the intersections that will operate at a lower LOS, as shown in Table 4.8-5, to be consistent with the MOU language.</p>
4.8-27	Table 4.8-4 – Weekday PM Peak Hour Intersection Conditions – Build-Out plus	<p>136. See blue text above regarding major/ minor LOS calculations under section for page 4.8-6.</p>

Page number	Section topic	Comment
4.8-30	Project Alternatives A and B	137. See blue text above regarding major/ minor LOS calculations under section for page 4.8-6. Table 4.8-5 – Saturday Peak Hour Intersection Conditions – Build-Out plus Project Alternatives A and B
4.8-42	Scenario C Weekday PM Peak Hour	138. The bulleted list includes four intersections predicted to operate at LOS D or lower during the future year, with the development. The list does not include the intersections that will operate at a lower LOS, as shown in Table 4.8-8, to be consistent with the MOU language.
4.8-42	Scenario C Saturday Peak Hour	139. The bulleted list includes three intersections predicted to operate at LOS D or lower during the future year, with the development. The list does not include the intersections that will operate at a lower LOS, as shown in Table 4.8-9, to be consistent with the MOU language.
4.8-46	Table 4.8-8 – Weekday PM Peak Hour Intersection Conditions – Build-Out Plus Project Alternative C	140. See blue text above regarding major/ minor LOS calculations under section for page 4.8-6.

Page number	Section topic	Comment
4.8-49	Table 4.8-9 Saturday Peak Hour Intersection Conditions – Build Out Plus Project Alternative C	141. See blue text above regarding major / minor LOS calculations under section for page 4.8-6.
4.8-61	Scenario D Weekday PM Peak Hour	142. The bulleted list includes four intersections predicted to operate at LOS D or lower during the future year, with the development. The list does not include the intersections that will operate at a lower LOS, as shown in Table 4.8-12, to be consistent with the MOU language.
4.8-65	Table 4.8-12 – Weekday PM Peak Hour Intersection Conditions – Build-Out Plus Project Alternative D	143. See blue text above regarding major / minor LOS calculations under section for page 4.8-6.
4.8-68	Saturday Peak Hour, Alternative D	144. There is at least one intersection projected to have a lower LOS with this project. See the MOU language.
4.8-72	Weekday AM Peak Hour, Alternative E	145. The bulleted list includes four intersections predicted to operate at LOS D or lower during the future year, with the development. The list does not include the intersections that will operate at a lower LOS, as shown in Table 4.8-15, to be consistent with the MOU language.

Page number	Section topic	Comment
4.8-81	Table 4.8-18 Weekday AM Peak Hour Intersection Conditions – Build Out Plus Project Alternative E	146. See blue text above regarding major / minor LOS calculations under section for page 4.8-6.
4.8-84	Weekday PM Peak Hour Alt E	147. The bulleted list includes five intersections predicted to operate at LOS D or lower during the future year, with the development. The list does not include the intersections that will operate at a lower LOS, as shown in Table 4.8-16, to be consistent with the MOU language.
4.8-84	Saturday Peak Hour Alt E	148. The bulleted list includes three intersections predicted to operate at LOS D or lower during the future year, with the development. The list does not include the intersections that will operate at a lower LOS, as shown in Table 4.8-16, to be consistent with the MOU language.
4.8-85	Table 4.8-16 Weekday PM Peak Hour Intersection Conditions Build Out Plus Project Alt E	149. See blue text above regarding major / minor LOS calculations under section for page 4.8-6.

Page number	Section topic	Comment
4.8-88	Table 4.8-17 – Saturday Peak Hour Intersection Conditions Build Out Plus Project Alt E	150. See blue text above regarding major/minor LOS calculations under section for page 4.8-6.
5-9	Section 5.2.7 Transportation Circulation	151. This section appears to repeat the MOU requirements for mitigation, however, this information is not included in the listing of intersections throughout Chapter 4 needing mitigation.

Page number	Section topic	Comment
Page 5-10 through 5-12	Table 5-1 and 5-2	<p>152. The only projects listed in Chapter 4 involve those intersections projected to operate at LOS D or better, not the intersections that are projected to operate at a lower LOS.</p> <p>The specific mitigations need to be very carefully reviewed for this project. The list of mitigations include specific lengths, based on modeling not provided to Clark County for review.</p> <p>It is possible that the specific details of the mitigation indicated may be appropriate for LOS mitigation, however, the actual mitigations need to exceed the values listed in the table, or additional mitigations will be required at intersections due to specific design standards.</p> <p>Design standards could include deceleration lane requirements, differential speed between freeway through and offbound traffic, grade, sight distance requirements, etc.</p> <p>The County has not been able to review the specific improvements recommended in modeling, to make sure that we agree with the specific mitigations listed in these tables.</p> <p>Any mitigation list needs to include language that the specific mitigations may need to be modified (added, or possibly reduced), based on County Code, State of Washington City/County design standards, WSDOT, AASHTO, ITE, ATSSA, FHWA, design standards, and standards of practice.</p> <p>At this time, the modeling has not been reviewed. The signals modeled by the applicant's traffic engineer may not be what WSDOT or Clark County would accept, requiring additional mitigations.</p> <p>For instance if the applicant's traffic engineer assumed protected/ permissive operations (along with the LOS improvements with that type of phasing) at a location where</p>

Page number	Section topic	Comment
		WSDOT or the County would not accept that type of phasing, then the left turn pockets and LOS may not be appropriately calculated.

Reviewer #6

Page number	Section topic	Comment
3.8-15	Transportation /Circulation	153. Minor error – NW 319 th Street is misnamed Avenue in the text.
3.8-15	Transportation /Circulation	154. "With the reclassification of area roadways, it is assumed that NW 319 th Avenue (sic) would be classified as an urban collector." Given the connection between NW 319 th Street and I-5, NW 319 th Street would be classified as, at least a minor arterial, if not a principal arterial. The classification would govern the spacing of intersections within the project site and would probably require a different treatment of the west end of NW 319 th Street under Alternative A.
4.8-3	Transportation /Circulation	155. The description of the 85 th percentile event is incorrect. For example, if the event center holds 100 events per year and the events are ordered from highest attendance to the lowest attendance, the 85 th highest attendance event is the 85 th percentile event – it may or may not have 85% of the seats filled. A very successful event center may have many "sold-out" events which could lead to the 85 th percentile event having more than 85% of the seats filled.
4.8-3	Transportation /Circulation	156. The report cites other casino-hotel project analyses to support trip generation linking between the hotel and the casino. This analysis assumes that 75% of the hotel room occupancy would be by casino attendees and, therefore, applies a 75% reduction to the hotel trip generation. Why not use actual data from existing hotel - casino projects?

Page number	Section topic	Comment
4.8-53	Transportation /Circulation	157. Alternative D includes office space, office park and a warehouse building but no support retail that would naturally be part of such a large development. The support retail would have trips linked with the office and warehouse uses which would reduce the transportation impact of this alternative.
4.14-2	Indirect and Growth Inducing Effects	158. The report assumes that the additional demand for some 315 new residential units within the county is the only significant indirect effect from the preferred alternative (A). That assumption is tied to an assumption of no comprehensive plan changes as a result of the preferred alternative (quoting the E.D. Hovee 2005 report). The EIS should assess the potential pressure to convert the interchange to highway commercial uses and thereby reduce opportunities for industrial uses.
4.14-25	Indirect and Growth Inducing Effects	159. As noted in the prior comment, there is an assumption that any of the alternatives would not result in changes to the land use plan. Yet, in the land use section of all of the action alternatives, regarding the indirect impacts of off-site transportation improvements, there is an assumption that the proposed La Center UGA expansion to the I-5 junction is a "given." These two assumptions are in conflict.
4.15-12	Cumulative Effects	160. The report states "The County's decision whether to urbanize the interchange is a policy decision based on its long-term vision for Clark County, which began with an Industrial Reserve designation at the interchange site. The County's long-term vision will control the future urban development of the interchange area, not a causal link between the Tribe's development and additional urban development." The EIS should assess the relationship between tribal alternatives and the county's long-range goal of planning for family-wage job sites at the interchange.
4.15-26	Cumulative Effects	161. The report offers the questionable conclusion that cumulative impacts of Alternative D would be similar to those of Alternative A or B. The EIS should compare the effects of tribal alternatives relative to local economic development goals, both for tribal members and the general population.

Reviewer #7

Page number	Section topic	Comment
5-18	5.2.9 Noise	162. Estimated construction noise levels during construction far exceed WAC standards. Construction is an exemption to noise standards from 7 a.m. to 10 p.m. However, mitigation measures specified are very vague in terms of noise levels and likely will generate a large number of complaints. How will they be addressed?
5-18	5.2.9 Noise	163. There are no mitigation measures identified for operational noise.

Reviewer #8

Page number	Section topic	Comment
xxviii – xxix Executive Summary Table ES-1	Resource Column titled Fire Protection and Emergency Medical Service	164. This section of the table discusses construction activities and fire risks. While it talks about the use of fire-resistant materials in the construction of the facility, there is no mention about the timing of the installation and operability of the fire protection water system. The system must be in place prior to any above-ground combustible construction and before the introduction of combustible material to any of the facilities. This would apply to all alternatives discussed in the EIS.
xxiv of Executive Summary and Page 5-18 Item #AF	Executive Summary Table ES-1 – Resource Column titled Public Services – Water Supply versus Chapter 5 mitigation measures	165. The table shows all alternatives requiring a water reservoir to ensure adequate fire flows. However, in chapter 5, 5.2.8 Public Services (Fire Protection and Emergency Medical Service), Item #AF only shows alternatives D and E requiring a reservoir.
Page 5-17 Items	Chapter 5, Mitigation	166. NFPA is referenced in the installation of automatic fire sprinkler systems mentioned in Item #AB, however, not for the early detection systems referenced in Item #AD. Any fire

#AB and #AD	Measures – Fire Protection and Emergency Medical Service	alarm system must also be installed to the appropriate NFPA standards. The NFPA standards would also apply to the private fire pump and water system supplying the fire hydrants and other fire protection equipment. Additionally, based on the sizes of the buildings for each alternative, all buildings will be required to be equipped with an automatic fire sprinkler system if the words “applicable building codes” includes Clark County’s amendments to the adopted fire code.
3.11-4	State of Washington Noise Regulations	167. According to the EIS, once the federal government acquires the property in trust for the Tribe, the parcels would not be subject to State noise regulations. How does the proposal intend to mitigate off-site noise that exceeds state or local standards?

Reviewer #9

Page number	Section topic	Comment
Xxiii	Transportation	168. The tribe does not choose any particular baseline. They are required to maintain the same level of service existing just prior to development with a credit for trips that would have been generated if the property were developed under existing zoning i.e., Agriculture.
1.6.4	Traffic Mitigation	169. The tribe has agreed to pay the costs of traffic mitigation. There is no term in the MOU limiting costs to those the tribe believes are “reasonable”.
2-13	Wastewater Treatment	170. There is no discussion of the current BOD levels in the Lewis nor any discussion of the BOD impact of wastewater disposal on the Lewis River.
2-13	Site Drainage	171. There is no discussion of the ability of the offsite facilities or watercourse to handle the flows from this facility either to handle a single storm event or multiple storms in a week.
3.5-12 to 13	Wetland	172. Based on the MOU the tribe has agreed not only to collaborate but develop consistent with the County’s wetland and other regulations. See pg. 6 of MOU.

3.7-10	School District	173. The Ridgefield bond levy failed; no new construction anticipated in the near term.
3.8-6	Traffic	<p>174. The MOU recitation is inaccurate. See MOU and the notes above.</p> <p>175. No mention is made of the need to coordinate with CRESA. How does the proposal intend to mitigate the need for coordination and dispatch of all forms of local emergency service? This will be necessary for the day the project breaks ground so emergency services can be referred to the site. It is also a continuing need because emergency services will be needed at the site throughout its life.</p>
3.7-12		176. The tribe was acknowledged by Congress, not restored.

Reviewer #10

General Comments

General Comment No. 1 – The most important air quality discussion in the Draft EIS involves Section 3.4.2 “Regulatory Context”. This topic begins on Page 3.4-3 and covers the following three pages. Section 3.4.2 provides an indication of how differently air quality will be regulated within the exterior boundaries of the reservation compared with outside the reservation boundaries. The Southwest Washington Air Agency’s (SWCAA) local air quality regulations and the Washington Department of Ecology’s (WDOE) statewide air quality regulations will not apply to activities occurring on the reservation. Similarly, SWCAA and WDOE personnel will not have any legal authority to perform any activities on the reservation. This means if any air quality complaints are received by SWCAA about activities on the reservation affecting citizens residing off the reservation, resolution of the problem will be more complicated than normal because the reservation has sovereign nation status. Therefore, SWCAA may need to communicate with the Cowlitz Tribe through EPA Region 10’s Tribal Program representative(s) in Seattle because the Cowlitz Tribe representatives may want nation-to-nation consultation to resolve such matters. How will the proposal mitigate this situation?

General Comment No. 2 – EPA Region 10 Office of Air Quality in Seattle has developed a set of Tribal Air Quality regulations that EPA will apply on a reservation unless the Cowlitz Tribe opts to hire its own air quality personnel for the reservation and carry out its own rulemaking activities. EPA Region 10 developed its Tribal Air Quality regulations for reservations by reviewing Washington’s Local Air Authority and WDOE air quality regulations. In general, the EPA Region 10 Tribal air quality regulations that were ultimately put in place by EPA are less stringent than the regulations being used by Washington’s Local Air Authorities. The EIS should reflect this situation.

General Comment No. 3 - EPA Region 10 does not have adequate personnel to perform much oversight of air quality activities occurring on the reservation. EPA only has a couple of individuals who are assigned to perform air pollution activities for all of the Tribal reservations in Washington, Oregon, Idaho and Alaska. EPA Region 10 staff is rather overwhelmed by the Tribal workload that they are facing over the next several years. This means that EPA Region 10’s

response for on-reservation air pollution that is affecting off-reservation Clark County residents may be very limited because of inadequate staffing levels. In addition, EPA's and/or the Cowlitz Tribe's issuance of air quality permits to air pollution sources located on the reservation may or may not meet Best Available Control Technology (BACT) requirements that the Washington Clean Air Act requires all sources located off the reservation to meet.

General Comment No. 4 - The Draft EIS has inaccurately explained on Page 3.4-5 the authority and relationship between the Southwest Clean Air Agency and the Washington Department of Ecology. The EIS should correct this information.

General Comment No. 5 - The Draft EIS has correctly stated on Page 3.4-5 that: "Once the Federal government acquires the property in trust for the Tribe, the parcels would not be subject to local regulatory authority for air quality." However, this sentence needs to be expanded and revised to read: "...the parcels would not be subject to local or state regulatory authority for air quality."

General Comment No. 6 - The section titled "Conformity" beginning at the top of Page 3.4-6 is addressing an issue that falls under the responsibility of the Southwest Washington Regional Transportation Council (RTC). The EIS should reflect RTC input on this matter.

Specific Comments

Specific Comment No. 1 - Replace the first and second paragraphs and add a new last paragraph on Page 3.4-5 under the caption "State". This revised section should read as follows:

"The Washington Clean Air Act (RCW 70.94) provides that the Department of Ecology (DOE) is the air quality management agency for a geographic region of the state unless a local air authority is formed to assume this responsibility. In the case of southwest Washington, the Southwest Clean Air Agency (SWCAA) was formed in 1968 by an agreement of Clark, Cowlitz, Lewis, Skamania and Wahkiakum Counties to regulate air quality at the local level. DOE's role is to establish statewide standards and rules which Local Air Authorities must meet, but also may exceed if the condition of the local air quality requires such action. Throughout southwest Washington,

SWCAA provides for the systematic control of air pollution from air contaminant sources and partners with DOE to achieve this outcome. Local air authorities prepare the SIP and submit them to DOE for approval and forwarding to the U.S. Environmental Protection Agency. As discussed above, the SIP for the State of Washington is not a single document, but a compilation of plans, programs, local air quality rules, state rules and federal rules.

SWCAA and DOE operate an air quality monitoring network which determines whether southwest Washington complies with each ambient air quality standard. Additionally, the State of Washington has codified several of the NAAQS in the Washington Administrative Code (WAC) Title 173, Chapters 470,474, and 475. These Washington State Standards are also listed in **Table 3.4-1**.

Once the Federal government acquires the property in trust for the Tribe, the parcels would not be subject to state or local regulatory authority for air quality.”

Specific Comment No. 2 – Expand the first paragraph on Page 3.4-9 under the heading “Toxic Air Pollutants” to explain that SWCAA and DOE have a statewide Toxic Air Pollutants (TAP) emission standards that industrial and commercial sources of air pollution must meet. This state regulation is referred to as WAC 460. In summary, include the following sentence at the end of the first paragraph:

“DOE has adopted WAC 460 as a statewide rule to limit the emission of toxic air pollutants from industrial and commercial sources of air pollution.”

Appendix 4
Clark County Comments
Request for Consideration of Issues in EIS
Cowlitz Casino-Resort Draft EIS
May, 2005



proud past, promising future

DEPARTMENT OF COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Bill Allen and June Boynton
FROM: Marlia Jenkins
DATE: May 12, 2005
SUBJECT: Issues for Consideration in Cowlitz EIS

Thank you for hosting the cooperating agency meeting. It was a good opportunity to meet many of the parties evaluating the EIS.

In the meeting, you indicated that cooperating agencies could submit questions for consideration as part of the EIS. The attached list comes from conversations we have had internally. Some ask for clarifications of material familiar to you, but unfamiliar to us. Some ask for comparisons that we feel are important to understanding the potential for the casino development in comparison to other developments of similar type in similar communities. We tried to avoid questions where the answers might require release of proprietary information from other casino projects.

Several of the questions relate to the tribe's administrative capacity. We believe these questions are very important because they provide an indication of the tribe's ability to respond to problems and to meet the commitments they will make through mitigation measures or have made through MOUs and other documents.

Please feel free to call me at 360.397.2375 ext 4405 if additional clarification is needed.

1. Tribal Governance

- a. Why: The form and stability of the tribal governance structure will influence the tribe's capacity to deliver on the agreements made with jurisdictions, special districts, etc. It will influence their ability to solve problems and also influence their ability to monitor the progress of their economic ventures.
 - i. Tribal constitution or bylaws, how do the documents say the tribe will govern itself? How does the tribe view the success of the structure?
 - ii. What changes are planned in tribal administration to respond to economic growth?

- iii. What are the preferred methods for bringing issues to the tribal council for resolution. Who is approached under which circumstances? Which committees or staff should be addressed?
 - iv. What is the tribal structure for making decisions on subsequent economic investments? In service investments?
- 2. Benefit to Tribe
 - a. Why: The benefits of a casino development to the tribe may occur financial, culturally and socially. The data used for the comparisons should compare the Cowlitz characteristics (not general characters of tribes in the US) against the successes and failure of other casino developments in urban settings. The tribe, as it becomes more affluent, will make decisions on whether the benefits will accrue to individuals, to the tribal entity or to both.
 - i. What are the plans for assisting tribal members, as individuals or as members of the tribal entity?
 - ii. How many, if any, of these benefits will extend to other native Americans working at the casino?
 - iii. Which services does the tribe access from the BIA, which services are accessed directly from the federal government. Are there plans for change?

3. Law Enforcement and Courts

- a. Why: Law enforcement jurisdiction, court authority and incarceration options can vary depending on the type of crime committed and the status of the offender as a tribal member, native but a member of another tribe, or non tribal. To minimize impacts, it is important to have a structure in place that offers gap free enforcement and adjudication and offers enforcement officers the highest potential to be effective at their jobs. Accommodation must be made for the initial phases of the development, when tribal resources are likely to be limited as well as for situations in the future when the tribe may have sufficient resources to hire their own staff. The MOU between Clark County and the Cowlitz Tribe makes an important first step in clarifying service provision. The more clarity in this area, more likely it is that the tribe and the community will avoid unintended consequences in service demand.
 - i. Clarification of jurisdiction over tribal members, native but another tribal member, and non-tribal members while on the trust land.
 - ii. Clarification of jurisdiction of tribal courts, how will they be established, and how is independence assured?
 - iii. Is jurisdiction the same or different for juveniles?
 - iv. What are predicted crime rates based on experience of other recently developed urban casinos. Incidence and magnitude of violent crime, financial crime, domestic violence and child abuse, child neglect, DUI, attraction to criminal elements, prostitution, juvenile gambling, links to organized crime, corruption.

- v. What are predicted crime rates when viewed as crimes against community (off trust land), against casino patrons, against casino, against casino employees.

4. Taxation and Contributions to the Economy

- a. Why: A tribal casino and associated activities make contributions to the local and state economy through a variety of mechanisms. Because tribes do not pay taxes in the manner of other businesses, it is important to understand their total contributions and the methods of contribution, and the way these sources may increase or decrease over time. The MOU between Clark County and the Cowlitz Tribe makes an important first step in clarifying contributions to the economy. The more clarity in this area, more likely it is that the tribe and the community will avoid unintended consequences.
 - i. Clarification of taxation for tribal, native and members of other tribes, and non tribal members on the trust land. Which taxes do they pay?
 - ii. How many goods and services should be purchased by the casino annually and over a 10 year period?
 - iii. How much should be collected in federal employment taxes and state employment taxes?
 - iv. What percentage of the tribe's gross revenues are expected from gaming? From other enterprises?
 - v. Consider the level of compensation offered to the community in anticipation of crime rates. Does it compensate for the expected increased level in crime and social issues?

5. Civil Regulation

- a. Why: Regulation of health standards, building codes, fire inspections, animal protection, etc. is another area where tribal needs are expected to grow over time. Regulation of this area should protect the health and safety of persons using tribal facilities, facilities operated by non-tribal interests on trust or reservation land, and adjacent owners. To minimize impacts, it is important to have a structure in place that offers gap free enforcement and adjudication and offers enforcement officers the highest potential to be effective at their jobs. Accommodation must be made for the initial phases of the development, when tribal resources are likely to be limited as well as for the future when the tribe may have sufficient resources to hire their own staff. The MOU between Clark County and the Cowlitz Tribe makes an important first step in clarifying service provision. The more clarity in this area, more likely it is that the tribe and the community will avoid unintended consequences in service provision.
 - i. Clarification of jurisdiction for enforcement and adjudication over activities owned or operated by tribal members, native but another tribal member, and non-tribal members while on the trust land.

- ii. What kinds of inspections are conducted annually? What kinds are conducted based on risk factors?
- iii. What are the predicted violation rates based on experience of other recently developed urban casinos?

6. Housing, Education and Human Services

- a. Why: Traditionally, tribal members have been consumers of their own services as well as consumers of human services made available to the general public. To minimize impacts, it will be important to understand the services available and to streamline service provision so all persons in need can find and access services. Quite often, gaming enterprises stimulate the need for additional services related to addictions, etc. The community must accurately assess the future need for services so adequate (but not excessive amounts) of services are available.
 - i. What kinds of health services are currently accessed by and needed by employees of urban casinos?
 - ii. What is the experience in other urban casinos, how many employees(tribal, native and members of other tribes, or non-tribal) generally reside in subsidized housing?
 - iii. What is the experience in other urban casinos, how many employees(tribal, native and members of other tribes, or non-tribal) generally rely upon TANF?
 - iv. What is the experience of other urban casinos regarding educational achievement of employees and their families. What impact can be expected on local schools in terms of numbers of students, educational achievement, deficiencies, etc?
 - v. Based on the income levels of workers, what is an affordable housing rent, or purchase price. What is the current availability (in number and location) of affordable housing within a 25 mile radius of the proposed casino location.
 - vi. How many tribal members, members of other tribes, or non tribal members can be expected to move to Clark County to work in a casino development and related activities? Given that Los Angeles, San Francisco, and Seattle are among the top 10 cities in the US with urban tribal populations, how many might relocate from these areas? Consider this in light of business cycles when unemployment, locally, may be low in the private sector.

7. Casino Development

- a. Why: Specific questions on the casino development are important for an understanding of the impact on the community as a whole. Comparison to other recently developed casinos in urban areas will be important.
 - i. What are the measures of economic success for the development? In the eyes of the investors and the eyes of the tribe?
 - ii. Does the tribe intend to develop internal capacity to manage the development? If so, how? And over what time frame?

- iii. Compare non-tribal with tribal casinos. Do the impacts on the neighboring communities differ? If so, how?
- iv. Describe the estimated economic impact on Clark County and the immediate Portland metro area in terms of destination effect, substitution effect, multiplier effect, intensity effect. Do so in radius increments of approximately 15 miles. Please discuss this in terms of Clark County as a whole as well as in terms of the cities within Clark County. Comparisons to the metro area can be county to county.
- v. How will the tribe address transportation issues for employees such as carpools, transit service and commute trip reduction?
- vi. Because of the location, light and noise reduction at the fringes of the development will be necessary to respond to the concerns of adjacent low density residential uses. How will this be accomplished?
- vii. What kinds of impacts are expected on Paradise Point, the adjacent state park? Please consider projected increase in visitors and potential public safety issues.
- viii. Please describe the job profile for the casino and for associated enterprises. Please describe the distribution of full and part time employment, salaries, benefits and education and special skills required. Include tribal members, native of other tribes, and non-tribal members. Please use a comparison based on other urban casinos.

8. Community Development

- a. Why: The tribal land, if developed in a casino or any other use has a development impact on adjacent lands and communities. The impact will vary based on the specific land uses constructed. To mitigate impacts, it is important to develop a system that assesses and coordinates the initial development, but also assesses the impacts of remodels, changes in use, expansions, etc that may occur over time.
 - i. Based on casinos of the same size and use, typically, how often do casinos and resort hotels remodel?
 - ii. How often do hotels and casinos change uses within the structures in the first 20 years of operation?
 - iii. What is the experience of other urban casinos in acting as a generator or magnet for off-site adjacent commercial or residential development?
 - iv. What is the experience of other urban casinos regarding the interaction of industrial and casino resort uses? Do casinos act as a magnet for or detractor from industrial uses? What has been the experience with vehicle mixes of truck traffic and passenger cars?

9. Role of the EIS

- a. If an action is described as mitigation, must the tribe do it?
- b. What happens if they do not?

Thank you for your attention to these questions. Clark County greatly appreciates your attention and response as part of the EIS.